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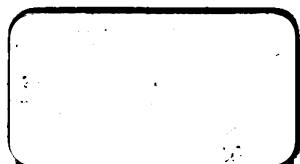
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THOUGHTS

ON THE

ELEMENTS OF CIVIL GOVERNMENT,

TENDING TO PROVE AS A

FUNDAMENTAL PRINCIPLE,

ON THE AUTHORITY OF THE JURISTS—THE NATURE OF GOVERNMENT—
THE EXPERIENCE OF THE PRINCIPAL EUROPEAN STATES, AND
PARTICULARLY THAT OF THE BRITISH EMPIRE,

THAT THE LOWER ORDERS OF SOCIETY,

THE POPULACE,

CANNOT, CONSISTENTLY WITH THE STABILITY OF GOOD
GOVERNMENT, BE SUFFERED TO EXERCISE ANY SHARE
OF POLITICAL POWER OR CONTROLLING INFLUENCE
OVER THE CONSTITUTED GOVERNMENT.

— nil ausuram plebem, ductore amoto ; jam
ausam fuisse, quia parum auxillii in legibus erat.
TACITUS.

BY

A BRITISH JURIST.

LONDON.

B. FELLOWES, LUDGATE-STREET.

MILLIKEN AND SON, DUBLIN.

1836.

537.



THE RT. HON. JOHN SINGLETON

LORD BARON LYNTHURST,

ETC. ETC. ETC.

MY LORD,

Forgive me, for assuming without permission, the honor of connecting the following Tract with your Lordship's name—a name now become illustrious by a defence of that constitution which, whatever may be its ultimate fate, you have, for the present rescued from the ruffian gripe of its malignant enemy.

Utterly unknown to your Lordship—and unconnected with, as I am independent of, political party—I am induced to use the, perhaps, unwarranted freedom of addressing to you this half-philosophical, half-political Essay, by a twofold

motive: first, because it affords the opportunity to express my unfeigned and disinterested admiration of the constancy, courage, and singular talent, evinced by your lordship's manifold and gloriously successful labours of the past session,—and next, because the sole aim of the Tract, which I thus obtrude upon your notice, is to promote, at an humble distance, the same great object to which your Lordship's splendid powers have been, and I hope will long continue to be, directed—to guard the safety and secure the permanency of that constitution by which England has been raised to unexampled greatness, but against which *now*, all that is base, vicious, desperate, and profligate in the mass of society, seem, as by a common impulse and congenial hate, to have coalesced for its destruction!

My single purpose throughout the whole of the work, has been to bring forward, enforce, and illustrate, the *one great principle*, upon which mainly, in my opinion, and beyond all others, depends the PERMANENCY of any form of civil government, fitted to answer the ends for which

Government among men in society has been instituted.

Whether I have overrated the value of that principle—or, from inability, have failed to prove its efficacy, it is not for *me* to decide. One proposition, however, I am convinced will be admitted by all who shall dispassionately consider what I urge, and that is—that whether the principle be, or be not, *universally* true in its application, at least the accumulated evils under which the empire *now* labours, have been produced by A POPULACE having been suffered with impunity and unchecked to control and overawe the legislature and civil power of the state.

I have the honor to be

My Lord,

Your Lordship's

Faithful servant,

A BRITISH JURIST.

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SECTION I.

THERE are some questions in religion, morals, and metaphysics, which, perhaps, ever must remain unsettled so long as man shall remain in his present state of being—with faculties unfitted to comprehend the high and deep things which belong only to the LORD OF NATURE !

But it may well excite our wonder, that on subjects which grow out of his present condition—which have relation only to his present well-being—to the daily business of life—to his personal safety—to his freedom—and the protection and security of his personal enjoyments in society, he should appear still to be ignorant of what the experience of 6000 years, and the history of all by-gone ages, have incessantly been diligent to teach—nay, to inculcate upon him, namely, the principles of Civil Government ; and yet, does it not seem that though the wants, the industry, the experience, the sufferings, and the enjoyments of man in society, since he first appeared on this planet, ought to have been

continually and successfully adding to the common stock of human knowledge in all that nearly concerned his immediate and personal interests, still at the present hour we are not yet fully agreed upon *what* it is that constitutes the cardinal principles—the main elements of civil government—the basis upon which alone so much of all that makes man's life valuable, should rest.

But is the fact really so? Are we thus miraculously ignorant? Let us not answer, without due consideration, this interesting question. But to what authority shall we recur in order fully and safely to satisfy the enquiry? to ascertain, if not totally ignorant, to what extent have we carried our knowledge—what is fixed—what yet remains uncertain or doubtful? Must it not be to history that we appeal—history, ancient and modern, but, perhaps, more especially to modern—to that of our own times—to the records of events which we have witnessed, 'greatly wondering,' in which we have acted or suffered—and with respect to which, at all events, we have the most authentic knowledge, and upon the truth or error of which, our own experience of passing events has enabled us to form a judgment on which we can rely with greater confidence than on the mere authority of the, perhaps ill-informed, and certainly always more or less partial historian?

The last half century has been more instructive to teach us what progress has been made by man in

the science of government, and what man is or may become by the circumstances in which the vicissitudes of civil society may place him, than any age of which history records the transactions—more instructive, as well by our more accurate knowledge of the events which it has thrown up, as by the nature and number of the changes—the various and most momentous revolutions which have taken place within that period. Still more instructive, perhaps, may it have become by the circumstance that those changes have occurred at a time when all the various knowledge which antecedent ages may be supposed to have accumulated and transmitted to the governing powers of the world, was not only within the reach of those who were actors or sufferers in those scenes, but was actually before them in a form condensed and illustrated by the literary, political, and philosophic labours of some of the ablest men whom any age had produced.

Shall we then recur to the history of Europe for the last fifty years, and consult its records and its revolutions (the age of revolutions!) for information as to what progress has been made in ascertaining and fixing the principles of government—in reducing it from conjecture and guess and experiment, to the certainty of at least what may be called a *moral* science? Or shall we, in preference appeal, as we may, to the present distracted situation of our own, the British empire—the unsettled and

turbid state of its councils—the rapid changes of men and measures which the sovereign is compelled to try, in order to keep society together—to work the machinery of the constitution—prevent a full stop of the operations of government—and a consequent general convulsion! Whether the appeal be made to the history of the other European nations, or confined to our own, the result, I much fear, will be the same; and must end in the conviction that a fundamental principle remains yet undiscovered in the art of governing, or has been miraculously overlooked by those who have guided and yet guide the governments of Europe. In the one case, how imperative will become the duty to supply this deficient principle, and in the other—to correct our error of omission, or our guilty negligence, if the principle had been already known to us!

Let us, in the first instance, consult France. France, among the earliest civilized nations of Europe.—France, polished, learned, scientific, philosophical France! What does her history of the last half century teach? What do we learn from *her* bloody and revolutionary annals? Undoubtedly she has been, on a view of the whole of her revolutionary story, the *most* instructive in teaching modern Europe the extent of our ignorance in the *art* of civil government—or the *science*, if you please—and if government can be considered as connected with *any* principles that may properly be called *certain*.

Her *first* revolution (for she has had many) was commenced under auspices promising the most conclusive proofs of what might be achieved in the development and illustration of the theory of civil government, on principles at once abstract and demonstrative, though they had the changeful nature of man for their subject. For the preceding half-century, the learning and genius, the knowledge and the philosophy of her men of science and literature had been pioneering the way for this great change in the form and substance of her government—one which was to introduce a still greater change by increasing incalculably the sum of human happiness. This co-operation of the most potent moral causes, was not confined to France merely: it was successful in gradually, but most effectually, sap-
 ping the foundation and altering the forms of ancient government, not only in France itself, but wherever French philosophy and letters had extended their influence. The false principles of many of the old governments were exposed, disproved, and ridiculed,—they were as frail as false, and they fell. The labours of those by whom they were assailed were aided in a most signal manner and degree by the contemporary vices and follies of the existing ruling powers. When the revolutionary force had begun its assault upon the existing government in France, one of the first important experiments was made on its *Nobility*. In the first national assembly, the

Peers, were merged in the common mass with the other two estates, and became a co-ordinate part and parcel of the *representative body*. Shortly afterwards, and, it may be said, in the *natural course of things*, the *monarchy* was subjected to a succession of degrading experiments. By successive acts of the *popular will*, operating upon and through the representatives of the *populace*—the *mountain*—the power of the monarch was curtailed—his prerogatives narrowed or annulled—the personal privileges of the king abridged, and the sovereign himself dragged from the throne, and sacrificed on the scaffold at the united call of the philosophers and the populace of France!—that populace, however, not *themselves* rising in insurrection, but availing themselves of the then regular and obedient organ of their power—the representative assembly ! Those experiments on the principles of government did not take place suddenly, unadvisedly,—in the heat of popular commotion ; they were the result of eloquent debate—in the clubs—in the assembly—of long and permanent sittings of the legislative body—of the *united wisdom* of the French *people*—among them, certainly some of the most honest, as well as the most able men in France, who in vain remonstrated against those newly revealed principles of government—the popular *movement*—the *will* and *majesty* of the French people. The nation, after wading through a sea of blood, and writhing

under the cruel tyranny of successive sets of *popular* rulers—each trying their own respective experiments on the ‘principles’ of government—worshipped, in the mean time, by a populace which, *while it worshipped, trembled* before the ‘gods themselves had made’—the nation, I say, after passing through various and almost indescribable sufferings, inflicted by organized clubs and political associations, assuming and abusing all the powers of democratic misrule—impelled alternately or successively by ambition, avarice, lust, plunder, and cruelty, and designating themselves in whimsical variety by all the names which forms of human government ever wore, and which the ‘*sovereign people*,’ day after day, submitted to with an insane patience of experiment—until they at last sought relief in bowing the neck to a single tyrant, who swayed the most complete and inexorable despotism that a single hand could wield, and yet, governed in a spirit, mild and beneficent, compared with the cruelties and horror of ‘popular liberty,’ under which they had been made to groan !

The history of the military despotism of the revolutionary emperor need not be referred to for the illustration of *its principle* of civil government. Despotism is always uniform in the principle on which it acts, though the measures of the despot may vary in their effects on the governed, through the whole scale on which the misery or temporary

happiness of a people can be calculated. It is sufficient to say, that, abandoned by France, which he had exhausted of its physical and moral strength, while its increased military renown under that most extraordinary person, afforded a temporary consolation for its loss of liberty and peace—even *he* was assailed by popular attempts at assassination upon ‘principle’—attempts, for himself perhaps unfortunately, unsuccessful. He was at last, however, compelled to let go his hold on France and its crown. The states which he had humbled—those too which, while he was a prosperous tyrant, shared his glory, as well as that *one* which had alone resisted and restrained his destructive career—England—all combined to expel him as a common nuisance from Europe. France was therefore, once again, to inquire into the principles of pure government. Defeated, disgraced, baffled in all the wild experiments in the art of ruling, in which her sciolists and philosophers had engaged her, she was obliged reluctantly to “try again what she had tried,” and suffer one of the race of her former sovereigns to make another experiment of the ‘principle’ of of kingly government, but under a constitution restraining and limiting its power. The reign of Louis XVIII. a period of apathy, from exhaustion and imbecility—was one in which neither the sovereign nor the people had the power, or the will, to try fully the efficacy of the experi-

ment in which they had engaged. Under the next immediate successor, Charles X—a legitimate sovereign also—we find another revolution, and a still more memorable experiment, namely, that of expelling the sovereign, who was legitimately king, and governing by a *Republican* monarch, Louis Philip—one raised to the throne on the very field—on the very day—where and when was fought the Republican battle which expelled the legitimate sovereign!

Accepting of his authority and throne from that source, Louis became, by a notable and puerile distinction, not king of *France*, but of the *French*—a king who yet holds the crown with a tenacious hand certainly, but under circumstances so delicate and dangerous, that scarcely any degree of experience in revolutionary movements, or in pre-judging what it may please the assassins or the patriots of a populace to effect, can enable us to say what may ultimately be the character or the termination of his reign.

During this reign, a new sect, or species of assassin-philosophers, arose, and have twice already attempted to try some more novel and acceptable principle of government than any which France has yet had, or which the present sovereign is likely to afford them. So far, as to the experimental government—*France!*

Spain has contributed her portion of information to the inquirer after the true principle of

civil government. She has undergone her trials. They have already produced disorganization—civil war—the usurpation of the mob—the subjugation of the sovereign—the compulsion of the monarch to accept and swear to a constitution, *respectfully* presented for acceptance by a sergeant's guard at the point of their bayonets, and from fear of instant murder, accepted!

Portugal, within a few days later than the date of Spanish freedom, under the constitution of 1812, exhibits the result of another experiment on the principle of government; and we have seen a private company, partly Deputies, arrived in the capital, as of to-day to attend a legislative assembly on the morrow—one convened under an existing, though lately assumed form of government—we have found this little convivial society of political and legislative philosophers, resolving, in their cups, that there *ought to be* a revolution and a new constitution—they instantly act on the resolution, assemble a few national guards—proceed to the closet of the female sovereign—*invite* her to annul the existing constitution, and adopt one which had, upon trial, been already rejected seventeen years previously! The sovereign yields; the WILL of the PEOPLE became known; and in one short afternoon Portugal changes its form of government, and betakes itself to a second experiment on the defunct constitution!

Italy, Poland, Ireland too—Ireland, part and parcel of the British empire—they have all, ALL, within the same short period of half a century, passed through the fire to Molech, the revolutionary deity, whom, as oracular and infallible, on questions of civil government, all consult to discover its true principle! As to Italy, she, indeed, only followed the fortunes of France, and was dragged at the chariot wheels of her tyrant, and needs no observation. POLAND, the land of the bravest and most romantic lovers of ill-understood LIBERTY whom Europe ever saw—Poland has vanished from among the nations; she has been extinguished while trying the last of a numerous series of revolutionary experiments on popular liberty, combined with popular license. She has ceased to be a country: she has perished in making her last struggle; and there is no promise of a resurrection for her as a people! Her time for experiment to find the precise point beyond which liberty cannot exist for a populace not amenable to a power governing by law, is passed away, probably for ever; while Russia, despotic and remorseless in the exercise of her tremendous and ever-spreading power, tried, and still is trying, on her part, the *experimentum crucis* on the miserable remains of the Polish population; an experiment to ascertain *whether the best mode of governing refractory patriots be, or be not, the unqualified forfeiture of the property, and the*

universal banishment, to the wildest region of her own wide empire, of all whom she shall not have decided to slaughter in cold blood!

Then IRELAND—unhappy Ireland! she not only for the last half century, but for successive centuries, has been the morbid subject of experiments in government. Let us not look back at the crimes and the errors of her early history. View her in her most palmy state;—the day of her glory—the revolution of 1782, when she was taught to think; and was credulous enough to believe, that she became an INDEPENDENT NATION! When England reluctantly gave up the claim to bind Ireland by British law, the Irish patriot, *more suo*, shouted in wild triumph, “Independence and self-government!” He was thoroughly ignorant of the principle, that men may be governed by indirect and corrupting influence as efficiently as by direct legislation. He seems, indeed, not even to have conceived the *possibility* of it. Accordingly the Irish *independent* parliament ruled *for* England from 1782 to 1798; but in that year Ireland avowed, by an organized rebellion, that she was dissatisfied with *this principle*, on which she at last felt that England ruled her. Her patriots resolved to try *principles* of *another* kind: most of them, those by which the French people were misgoverning themselves. But, in addition, the Irish patriot sagely asserted the truth and practicability of the *principle* of

maintaining the port and bearing of an independent hostile nation, in a state of *total separation* from England;—*her* little island, with a population *then* of about three millions, against the British empire, then the most powerful empire in the world! *This* was, however, soon found to be a *false* principle on which to govern Ireland. Her *experimental* rebellion was quashed. English power, though France lent its aid to the rebels, achieved an easy and bloodless victory. The phantom of Irish legislative independence continued its ghostly appearance only for the short period of two years: for, within that time, England, who had taught Ireland the fallacy of *her* principle of rebellion, adopted one which events have demonstrated to be equally false, and, it may be, eventually more fatal to the general interests of the empire. England, obliged to give up the principle of governing Ireland by a corrupt influence over her independent (independent!) parliament, and to try a new, and, as her statesmen, no doubt, believed it to be, the only *sound principle* on which Ireland could be governed—she resolved on trying the principle of corrupting this independent Irish legislature to vote away its own political existence, and the independence of Ireland, such as it was, with it! The purchase was made, and the price paid in monies numbered; and after this bargain, sale, and delivery, Ireland became part and parcel of the British empire! Thirty-six years have passed

since this new order of things has arisen—for so many years this last great experiment of imperial British government has been on its trial, what has been its success? Let the present state of unexampled distraction in British councils and the obviously impending dangers that threaten the British people, answer!

It will be useful, however, in our present enquiry, to take a rapid glance at the *experiments* on government which have been made within that time in Ireland, thus become a part of the British empire.

A short mention of facts and events, which unfortunately we all too well remember, will suffice.

The first was an experiment at revolution, made by the boy Emmet; young indeed, but possessing great talents, highly cultivated, and fresh from the hotbed of experimental politics in which the former rebellion had been hatched—deeply imbued too with the principles of that school in which civil insubordination had been successfully taught as civic virtue! His, however, was but the rebellion of a day—it ended and was signalized but by two events; one, the murder of a Chief Justice of the King's Bench in Ireland, Lord Kilwarden, one of the most truly humane, just, and benevolent magistrates who ever graced the Irish bench,—the other, the execution of Emmet himself, for his

treason, who, though his unhappy fate, combined with his unusual eloquence and talents, excited for him very general commiseration—did not appear to die a repentant rebel.

The next experiment at improved government which followed that of the union of the two legislatures, was in the very highest degree, in every view of it, important to the whole empire—and whether it shall end in disappointment or success, has manifestly been pregnant with great results. This was the total abolition of the disqualifying laws against Roman Catholics—a measure by which Irish Catholics became vested with that highest species of political power known in a free state—that of sitting in the legislative assembly of the nation, and in the existing instance, the power of sitting and voting in the legislature of a state exclusively Protestant by its constitution, and that a constitution connecting by an *express and fundamental law*, the Protestant *church* with the Protestant *state*, on a principle, till then unquestioned, that such a connexion was essential to the safety of both! Thus the Irish Catholics became *in posse* what they eventually became in *fact*, a *third* party in the British senate, and in the habitual divisions of British party, enabled to become the arbiters between both, and to give a decisive preponderance to whichever of the factions or parties into which the legislature might split, which might

best promote the claims of the popish church, or of the popish population of Ireland—amounting, at that very moment, to not less than seven millions—probably sevenfold more than that of the Irish Protestants !

It is not to be forgotten, in looking at this important event, that at the time the British ministers conceded this all-eventful measure, Ireland and her people were in no very tranquil, no very amenable state. O'Connell's agitation had been making onward, and not silent movement for above twenty years. He had raised and ruled the Catholic Associations, and had nearly agitated Ireland into revolt, by his loud and exciting calls for popular aid to insure his success. Her populace was then, what it had been for centuries before, turbulent—little interested, even at that advanced period, in the general welfare or safety of the class which possessed considerable property, landed or personal—imbruted in poverty and by habitual outrages on social peace and order—and chiefly marked by the implicit submission with which, in all the concerns of life, civil and religious, they acted under the domination of a clergy and hierarchy, hostile, in an aggravated degree, from birth, education, and religious profession, to the people and religion of Protestant England. The success of this claim to total emancipation was obtained by means which, if soberly considered by observant and firm statesmen, would

alone have been sufficient to convince them that the claim should have been rejected, as threatening *all* the evils which have resulted, and must ever result, from power committed to the hands of an ignorant, a wild, and bigoted democracy. The measure was, however, carried by the clamour, the threats, and intimidation of the populace and their leaders—O'Connell, of course, the foremost. So insensible to what I hope we shall ultimately find to be the true principle of *safe* civil government—namely, the repression of popular clamour and physical force, when brought in aid of even the fairest claims on the ruling power—were the men who at that time guided British councils—(men who were, and are unquestionably, most *sincere*, though in that instance the *mistaken* friends of the British constitution, and of the peace of the empire,) that not only they gave their assent to the claim, but actually and *professedly* yielded the measure to *menace*, and a groundless apprehension of popular conflict should it have been withheld.

The Catholics were admitted into the legislature. O'Connell (I shall not characterise him ; he is now fully known to the public of the empire,) at their head. When this most dangerous experiment was adopted, it became obviously necessary that something should be done to insure the safety of a Protestant empire against the introduction of this dangerous and incongruous infusion. Something was

accordingly suggested for the purpose—and what? The safety of the Protestant state was committed, not to the rank, property, or character of this newly-admitted consort in the government of the empire—the safety of the Protestant church and people was committed to—an OATH! An oath to be taken by Catholic laymen, professing to bind them in their legislative capacity! An oath which, in its spirit and letter, was directly at variance with that principle of hostility, everlasting as theological hatred, which is avowed in the doctrines, and illustrated and verified by the whole history of the Church of Rome, against the “heretical and damnable heresy of Protestantism,” in all its forms! An oath, from which the Church of Rome was known to assume the power of absolving, according to its will and interests, all who may have taken it!* An oath, from which the Roman Catholic clergy and hierarchy of Ireland must, every moment, feel it deeply important to their temporal interests as well as their religious and clerical aspirations, that their disciples in the legislature should be freed! Here then is, perhaps, the most singular *experiment* ever up to that moment made on the *principles* of civil government!—an experiment on the *validity* of *oaths* taken by Roman Catholics to bind them against the dearest interests of a church avowing its *divine authority* to abrogate the most solemn obligation by which man can bind himself, when

* Vide Dens’ Theology.

such obligations are adverse to its interests !* The result was what might have been expected. What has it actually produced ? How is it *now* operating on the general interests of the British empire in church and state ? It has rendered the Irish population, headed by one of the most unprincipled men that any age has produced, the rulers for the present, of the British empire—it has produced, under the name of a representative body, one of three

* The Roman Catholic members who voted for the abolition of tithes, and the several other measures which have been proposed and supported by them against the Protestant Church in Ireland, since their admission to Parliament, and by which that church has so signally suffered—have been charged with a direct *violation of the oath* taken by them at the table of the House of Commons, as prescribed by the Emancipation Act ; the question is a perfectly simple one, which every gentleman may decide for himself by a simple reference to *his own feelings of honor and conscience*—first recollecting the measures which those gentlemen have voted for, and the speeches made by them on those subjects—(they are all upon record in the Journals of Parliament and its reported debates)—and, then, *reading the oath*, which is as follows :

“ I do hereby declare, disavow, and solemnly abjure any intention to *subvert the present Church Establishment as settled by law* within this realm. And I do solemnly *SWEAR* that I never will exercise any *privilege* to which I am or may *become entitled*, to *disturb or weaken the Protestant religion* or government in the United Kingdom. And I do *solemnly*, in the *presence of God* ; profess, testify, and declare, that I do make this declaration, and every part thereof, in the *plain and ordinary* sense of the words of this *oath*, without any *evasion, equivocation, or mental reservation whatsoever*.—So help me God.”

Let the reader, after this perusal, lay his hand on his heart and say, ‘ *guilty*,’ or ‘ *not guilty*,’ upon his honor.

estates of the realm, a body of men, among whom those who constitute the efficient majority are not the representatives, but the slavish deputies of that populace; men so ignorant of legislative justice, that spoliation of property the most sacred seems reckoned among their most important duties; who avow openly a determination, at the bidding of their masters, to prostrate, under colour of reforming, the hereditary second estate of the realm, and to abrogate the monarchy itself, by usurping a power to overawe the monarch, and thus make *their* will and that of the *populace*, whose bidding they acknowledge themselves bound to obey, the uncontrolled and unconcontrollable despots of the British people! But at present, perhaps, too much of this. I mean to reason, not to inveigh!

After this sketch of the revolutions in European governments, short as it is, for the last half century; after the errors—the continued train of mistakes and mishaps, and the consequent disasters which have followed those numerous experiments in government, is it irrational to doubt whether some important First Principle of civil government have not been within that period, if not unknown, at least latent, and totally overlooked? or, which perhaps may be the truth, that no government in Europe believed itself sufficiently powerful to enforce or act upon it? It shall be the object of this essay to inquire whether there be such a principle, and what that principle is.

It may, indeed, in the mean time, be very naturally asked, in reply to this observation, whether it be possible that there should be in existence a principle, capable of being deduced from history or practical experience, by which civil society could have been preserved from the wreck and ruin in which it has been involved by so many sanguinary revolutions, crowded into so short a period, and that yet no successful attempt should have been made to try the efficacy of such principle, or shew its saving power, even in a single instance? It might be difficult to answer this objection, if we did not experimentally know, from the almost uniform course of public and private life, that even where principles, the most indisputably effective for securing private and individual happiness, are acknowledged to exist and lie broadly open in the moral and religious codes which are daily taught and preached and inculcated upon us—enforced, too, by sanctions the most powerful that can be applied to our rational nature—yet even these are violated or neglected from the pressure of daily temptations, to which we thoughtlessly and ruinously yield! Are those to whom the cares of government are committed, or by whom they are usurped, more sedulous in consulting public safety or happiness, than private men in consulting *their* particular and most important interests? How often, too, from the pressure of circumstances by which states and statesmen are surrounded, and which they can

neither control nor evade, are principles of the most obvious truth and importance, necessarily superseded by others, for which times and passing events more imperatively call, or more safely admit? Sometimes want of talent, of experience, or of moral courage in the statesman, will render him unable to act upon the soundest and most acknowledged principle—nay, will supersede the principle itself, and throw the governing power upon an opposite and most ruinous one. Ambition, faction, love of place for the sordid emolument of office, may also, with at least equal effect and frequency, throw into shade, almost into oblivion, principles of the utmost value in administering the government of a state. May we not thus, then, even if no other reasons could be given, account for this apparent abandonment of an abstract principle, though obviously connected with wise and good government.* Let

* The following extract from Vattel seems strongly to strengthen this argument—

“Fatal experience too plainly proves how little regard those who are at the head of affairs pay to the dictates of justice [substitute “sound policy” and the fundamental principles of good government!] in conjunctures where they hope to find advantage; satisfied with bestowing their attention on a system of politics which is often false, since often unjust, [as well to the community they govern as to individuals,] they think they have done enough when they have thoroughly studied *that*.”

“Let us not renounce the pleasing hope, that the number of wise conductors of nations will one day be multiplied; and in the interim, let us each in his own sphere exert our best efforts to accelerate the happy period.”—*Vattel on the Law of Nations*, in Preface.

us, therefore, not be deterred from an inquiry whether there be or be not really a principle, however latent or neglected it may have been, which when ascertained and acted upon, would tend to lessen the black catalogue of evils which follow in the train of revolutionary violence.

I begin by submitting to the reader, that if such a principle exist, it must be deducible from the moral nature of man, or from the *frame and object* of civilized society, or from both united. Let us seek it from those sources.

Let us analyze the *moral constitution of man who is to be governed*, and find the ingredients of which that moral nature consists—what is essential to his well-being in a social state. Let us next inquire what are the constituent parts, or, the elements of *such a government* as is requisite for *such a moral being*, and to obtain and preserve for him that state of well-being—and from what causes it is likely to be endangered. When those shall have been found, if we impartially and carefully compare them with the *species of government* which is now actually applied to him in civil society as at present constituted, we shall, I am persuaded, inevitably discover the PRINCIPLE, whatever it be, which is necessary to the *safety and permanency of civil government*, but which appears to be so lamentably deficient in the European governments, whose his-

tory, for the last half century, we have been contemplating.

, But even when this *principle* shall have been elicited, either by the mode prescribed, or by any other, we shall still have no extraordinary cause for exultation; for we may be well assured that however highly beneficial this principle may be eventually found in giving strength and permanency to good government, it will, when brought into action in the first instance, be opposed with the utmost violence and pertinacity by the great mass of the population of every state. This must of necessity be so; for its operation must *necessarily* be directly hostile, I had nearly said, to the *natural instincts* of that very large portion of every community with whom revolutionary force almost universally arises; *that* class who, placed by Providence in the lowest scale of society, are generally found destitute alike of property, industry, and moral worth, and are, therefore, at all times, made the easy prey and ready instruments of men who, with more of property and talents, but equally low in character for virtues, public or private, are always prompt, when 'time and the hour' afford opportunity, to sacrifice social order, and the blessings of well-ordered civil government, to raise themselves to power, however short-lived, by the aid, or the terror, of physical brute force—a force, of which *they* well know how to become the movers!

By the populace, then, and by those who use them, the principle which tends to secure the permanence of the social blessings, will doubtless be ever denounced as a principle of slavery, an instrument of oppression and injustice, beneficial only to the rich, adverse to the poor, and inconsistent with free and equal government !

The inquiry and analysis which I have just suggested, may, at the first view, appear to be at once difficult and tedious—to be encumbered with metaphysical disquisitions—with questions, moral and political, admitting of no certain solution, and likely to end in profitless niceties and doubts. I am persuaded the fact is not so ; and that for all practical and useful purposes, the enquiry will be as short as the result is certain and useful. The materials for the research are obvious, and lie within a very narrow compass—What, indeed, is its object. We seek not to frame new constitutions for disorganized states—or to decide on specific subjects of difficult legislation or jurisprudence. We are engaged only in an endeavour to find a principle founded on common sense, and on facts admitted or vouched by the general experience of mankind—which may give some added strength to existing governments for purposes undeniably beneficial to society.

SECTION II.

LET us then enter upon this inquiry. To none of us can the truth upon such a subject be useless. To the statesman who has a share in the government of his country, and is not under the deplorable necessity of adopting, and acting upon the opinions of others as his own, a just knowledge of such a *principle* would be invaluable ; and even with respect to men in private station, it is not valueless : for, public opinion, rationally formed, and constitutionally expressed, must, at the last, be adopted by the statesman himself. Nor is the knowledge of it of difficult acquisition. A fair degree of attention to what we understand by the end and object of civil society, and what we perceive to be the actual machinery of civil government in every country where it exists, will be quite sufficient to direct us in our inquiry. It results, indeed, with the impressed character of truth strongly marked upon it, from a very short and easy analysis, such as I have above suggested, of the moral constitution of man, and the professed objects which civil government is formed to secure.

In truth, with respect to both the heads of inquiry, or the analysis which I have mentioned, the *moral nature* of man, as a subject of civil government—and the *object and end* of civil government itself—we find the work already done to our hand by some of the ablest men who have treated the theory of law and of civil government. Those writers are numerous—but for our present purpose Hobbes, Montesquieu, Locke, Rousseau, Vattel, Paley, Blackstone, may well suffice, when compared and reconciled (where they can be so in their respective theories, and that is, as to the points for which *we* resort to them, in almost every instance), to give us adequate information, and aid in the inquiry after this desired principle. I begin by giving short but I hope sufficient extracts from those several authorities to show *their opinions* on the *constitution of man's nature, so far as he becomes a proper object of government, and what ought to be, and theoretically is, the end and object of all legitimate government.*

In the first instance, then, we may very safely assume that man is so constituted, that *society* with his fellows is necessary to his nature—his instincts—his aptitudes for happiness—if so, we next ask, is *civil government* necessary to secure to him the benefits which such society may confer.

Is it necessary to his personal safety—to the security of those enjoyments which society can, and alonely can confer? If so, how is society itself to be procured? What is he to give or surrender in order to purchase this essential good? Is there any compact expressed or implied, to secure mutual advantages between those who agree to constitute a civil society and to give up in consideration of it any and what rights, which man without civil society would be entitled or enabled to enjoy.

That there never did exist a specific and exactly defined *compact*, entered into by the men who have at any time formed a beginning society of this kind seems quite indisputable; but that there subsists a virtual contract of this kind is equally certain; and the terms of this virtual engagement the labours of the jurists who have written on the subject of government have been devoted to ascertain. If they have not given us direct and positive knowledge of what from its nature must have been to some extent incapable of absolute certainty and precision, they have enabled us to make safe and just inferences in respect to the essential and main benefits which were and ought to be secured by the supposed contract;—the protection of life—of the property—the legal liberty—of the individuals who associate, subject to certain regulations which have now become

well defined in almost every civilized state. But they leave, untouched by any *explicit* declaration, the question or principle which we are now about to discuss: and though they talk much and loosely about the *rights* which they presume man to have given up for those which society is to secure to him, namely, those which they say he actually enjoyed in a *state of nature*, yet unfortunately the existence and actual enjoyment of those rights of man in a state of nature, as well as of any actual compact by which he is said to have surrendered them for a more valuable possession, appear to be *imaginary only*.—We cannot form any distinct notion whatever, either from reason or from revelation of any state in which an aggregate of men could subsist in what they call a “state of nature,” without being the subject of some rules, or restrictions or privations imposed upon him by other men (which would then constitute a state of society) either expressly or virtually—and assuredly no *express* compact was ever made between one set of men in this supposed and indescribable state of nature, to surrender to another set, those rights for the benefit of being restrained, though protected, by the combined parties in society.

The truth, therefore, certainly is, (and it is sufficient for our purpose), that though man never gave up, what are called his rights, in a mere state of nature, by an express compact with other men, yet he did from time to time, in the long

course of ages that have passed since he appeared on this globe, give up, or was obliged to surrender many of his rights (or rather the exercise of certain *powers*) to other men, for benefits which he either hoped and received, or which he extorted by mere force or power. How societies, therefore, were originally formed, or upon what conditions, we are utterly ignorant—but that some such were formed and in great numbers, and infinite variety, is quite certain, in every region of the earth,* and marked even at the present day by every various degree of barbarism and civilization. The jurists, therefore, must have formed their theories exclusively on the view of governments which existed in their own times, or, which authentic history presented to them. They then *imagined* a mode in which those existing civilized governments might have been generated. Substantially, their theories may be substituted for the fact, at least for the purpose of reasoning from them as to the relative duties of the governor and governed, in a state of actual society. Let us, therefore, assume the theories and doctrines of those writers—most of them, in such matters, able guides—and endeavour from a perusal of them, aided by our own knowledge and experience, to elicit, if we can, this general and fundamental principle of government—the neglect or ignorance of which has produced such disastrous

* See note A, in Appendix.

results, and from the operation of which, if we shall be fortunate enough to recover it, such important benefits may be expected. How far those writers go in aid of our inquiry we shall find by the extracts which I subjoin. They will be found fully to establish the two following propositions,

First—That previous to the formation of civil government, man had no chance of safety for life, liberty, or property, against any competitor who might feel inclination or interest to deprive him of them, except that which possession of superior strength might afford him—that, in fact, man was, before he submitted his liberty to civil government, placed in a *state of war* with his fellow men, and must have defended himself and his possessions, if he were permitted to call anything *his*, by repelling force by force.

Second—That the professed benefit, therefore, of *civil government*, which man purchased by the surrender of his natural liberty, if a compact were at any time expressly made to form a society with such a government, or, if such society already existed, and men agreed to become members of it, either expressly, or by mere submission, was, to have secured to him the protection of that government against the assaults of the wrong-doer—the man of violence and cupidity, who might feel an *interest* or a *desire*, and might also be *strong* enough, to possess himself by force of the *property*, and to violate for that purpose, the *liberty*, and even *life*, of his rival.

It follows, as a necessary consequence, that it became the duty of civil government in society, to defend the comparatively *few* of those who entered into the society, against the *many*—who constituted the great majority—those who had property against those who had none—the weak against the physically strong—in the enjoyments of all the rights of property, liberty, and life, against all wrongful assailants.

The authorities will be found unanimous upon these points, however, on other speculative subjects they may appear to differ.

Among the jurists, I refer to those who treat of civil government of modern date ; for, however we may admire the splendid characters, and venerate the public virtues of the classic ages—of the democracies or aristocracies of Greece and Rome—we look in vain to them for any of the true principles of government or civil liberty*—*they* cannot be found in times when slavery was not only partially tolerated, but where slaves constituted the great majority of the population of those states falsely called *free* † and where woman, who now adds

* *Aristotle* himself seems to have been totally ignorant of them. He lays it down as a self-evident maxim that *Nature* intended barbarians to be *slaves* ; and proceeds to deduce from this maxim a train of conclusions calculated to justify the policy which then prevailed.—*See Paley's Moral Philosophy—Moral Senses.*

† The numbers of the slaves in Athens and Rome are considered as amounting to triple, quadruple, &c. more than the amount of the free citizens.

grace and dignity to the liberty of modern states, was then ranked only next above the slaves themselves. It is within the last three centuries that, for the first time, the genuine principles of freedom and civil government began to develop themselves, and chiefly, we may be proud to say, in England. The date of the reformation in religion was substantially the commencement of that liberty in civil government.

I begin with HOBBS.

This very able man* took a bold lead in analyzing the nature of man in society, and of the principles and maxims which, according to him, spring out of that nature. He is certainly not a favorite with either the orthodox religionist or politician of our times ; but though he has been sneered at by some of the political and philosophic wittlings of his day, and by some of our own, for the strong and plain language in which he has exposed—*perhaps* exaggerated—some of the less amiable qualities of our common nature, yet he has laid down many most important propositions, illustrative of the true origin and objects of

* One of the most eminent among the modern jurists, Vattel, acknowledges the talents of Hobbes, as does also Puffendorf, lib. 2, chap. 3. Vattel says of him, in his preface to his *Law of Nature and Nations*, "In the work of Hobbes we discover the hand of a master, notwithstanding his paradoxes, &c. He was the first, I believe, who gave a distinct, though imperfect view of the law of nations."

society, and in which to the present day he has not been successfully contradicted. I do not cite him, however, as *alone* an authority for any position which it may be useful to state; but in his doctrine with respect to the object and motive with which man has entered into or continues in civil society, he is not only uncontradicted, but supported by the crowd of jurists who have followed him.

Hobbes, in his first chap. *De cive*, sec. 2, speaking of the *state of nature** before the formation of civil society, says,

“Eorum qui de rebus publicis aliquod conscripserunt maxima pars vel supponunt, vel petunt, vel postulant, hominem esse animal aptum natura ad societatem, eoque fundamento ita superædificant doctrinam civilem tanquam ad conservationem pacis et totius generis humani regimen, nihil aliud opus esset quam ut homines in pacta et conditiones quasdam, quas ipsi jam tum leges appellant, consentirent—quod axioma, quanquam a plurimis receptum, falsum tamen; errorque a nimis levi naturæ homine contemplatione profectus est. Causas enim quibus homines congregantur et societate mutua gaudent peritius inspectantibus facile constabit—non ideo id fieri quod aliter fieri natura non possit, sed ex accidente—nam si homo hominem amaret naturaliter, id est, ut hominem, nulla ratione reddi posset quare unusquisque unumquemque non æque amaret ut æque hominem, ni cur eos frequentaret potius in quorum societate ipsi potius quam aliis defertur honos et utilitas.”

In substance thus—

“The greater part of those who have treated of public affairs, either suppose or take for granted, that man is an animal

* See Note B, in Appendix.

intended by Nature for society, and on this foundation raised a system of *civil rights* as if *nothing else were necessary to the preservation of peace*, and the government of the whole human race, than that men should agree to certain compacts and conditions which they call "laws." This, however confidently assumed as an axiom, is unfounded, and has arisen from too superficial a consideration of human nature. To those who look a little more attentively at the real cause which leads men to form and to enjoy the benefits of society, it will be very manifest that this formation of human societies does not arise from the nature of things rendering it impossible it should be otherwise; but on the contrary, is purely accidental."

And he then proceeds to support this position of his by argument. "For (he says,) if man naturally loved his fellow man, *simply because he was man*, there could be no possible reason why every man should not love every other man *as such*, or why he should be inclined to associate with one set of men from whom he derived honor or profit, rather than another."

He follows up that argument by one much more conclusive, namely, that the best way of ascertaining *why* it is that men *associate together*, is by observing how they act when they actually do meet by agreement; if, for instance, men associate together for purposes of commerce, when they meet, they attend not so much to the *persons* with whom they assemble, as the matter of business which was their object.

' Quo autem consilio homines congregantur ex iis cognoscitur quæ faciunt congregati—si enim colant commercii causâ unusquisque non socium sed rem suam colit.'—Sect. II. Chap. 1.

He exemplifies the truth of the maxim by several striking instances, and the ultimate conclusion which he draws from the whole is,

“*Omnis igitur societas vel commodi causâ, vel gloriæ—hoc est sui non sociorum amore, contrahitur,*” viz. All human society is formed for the sake of some good to follow from it to the individual, or from some honor he may derive from it, (i. e. from a selfish motive) and not the love of his fellow.

He at last comes, in fine, (Sect. 2, Chap. 1) to this final result—“*Statuendum igitur est originem magnarum et diuturnitaram societatum non a MUTUA hominum benevolentia sed a MUTUA METU extitisse.*”—“That the origin of all great and lasting societies of men arose *not from mutual benevolence, but mutual fear!*” The same principle runs through the whole of his system—so much so; that he founds upon *hope* and *fear* the whole superstructure of human government (ch. 13, IMPERIUM.) “*Imperia PACIS CAUSA constituta sunt et PAX propter SALUTEM.*”—“Governments are formed in order to secure *peace*, and peace to secure *safety*,” &c.

In Chap. 1, Sect. 4, he lays down another point of doctrine—or moral proposition—“*Voluntas lædendi omnibus quidem inest in statu* na-*

* By the *state of nature* here, he means a supposed state, before men entered into society.

turæ,”—and he proceeds to show how this injurious tendency is produced, according to the different temperament of men—“*Alius enim secundum æqualitatem naturalem, permittit cæteris omnia quæ sibi—(quod modesti hominis est et vires suas recte estimantis)—alius superiorem se aliis æstimans omnia sibi licere vult et præ cæteris sibi honorem arrogat.*”

In Sect. 6, he states what are most frequently the causes of dissension and war among men.

Cap. 5, Sect. 9.—Definition of a civil community.

“*Civitas ergo (ut eam definiamus) est persona una cujus voluntas ex pactis plurium hominum pro voluntate habenda est ipsorum omnium, ut singulorum viribus et facultatibus uti posset ad pacem et defensionem communem.*”

“A community is an united body, whose will is to be taken as the will of the several persons who constitute that community, so that the strength and power of all may be used to *secure the peace and defence of all.*”

I have here given a few extracts only to shew the substance and general bearing of his opinion on the nature of man in reference to his aptitude for, and the necessity under which he exists of becoming a member of civil society—for defence against the *voluntatem lædendi*, which he describes as innate in man.—Thus much is sufficient for our *present* purpose from Hobbes.

LOCKE.

Locke, in his *Treatise on Government*—which contains much valuable though now old-fashioned matter—and not a little of trifling—after devoting his *first* book to the needless refutation of Sir Robert Filmer's argument to prove absolute monarchy the *only* legitimate government, begins his second book by presupposing, as most writers on government have done, what he is pleased to call a STATE OF NATURE. This he does, without appearing to feel any difficulty in conceiving any considerable number of men, even for a single day, existing in such a state. He treats it as a "state of perfect freedom—one in which men had a right to dispose of their *possessions* and persons as they thought fit"—though in the absence of all positive civil law, (such absence being always implied in a state of nature,) it is impossible to conceive what *disposable* property could exist. He also treats it as a state of '*perfect* equality*'—though in such a state, where no law fixed an *equality*, the difference

* It is right to observe, however, that in his chapter on *property*, sect. 54, he qualifies his meaning as to this *equality*, and says he could not be understood to mean "all sorts of equality—he intended only that equality which all men are in, in respect of jurisdiction or dominion over one another." This, however, leaves the inequality in point of mere physical strength quite sufficient to render *his* state of nature impossible to subsist among a great number for any length of time.

of mere *personal strength* must necessarily create an inequality among men. This "state of nature," he says, "has a LAW to govern it" which *law* is *reason*; and according to him, "*teaches every one that none ought to harm another, in his life, health, liberty, or possessions, and this because of the equality and independence of this state of nature.*"

Without further dwelling here, on the difficulty of conceiving how, in the absence of ALL the institutions of civil society, man could deduce such a perfect law or rule, as he states the *law of nature* to be, from, or by the unaided operation of reason, it is sufficient for our purpose to observe that in this state of nature, the violation of this *law* of nature in every instance, was to be punished by the person injured by that violation of it, who had vested in him, *though as judge in his own case*, the *execution* of this natural law against the offender—he does not state in what that execution consisted—nor could he—for this imaginary law had no sanction. Each man, then, in this state of nature, was himself, for himself, to ascertain what the law of nature was, to fix its sanction, and to enforce obedience to it for *his* own benefit according to such judgment as *he* might think proper to pronounce in his own case—and execute upon his opponent or enemy!—a state of things, in which, if man were not, while in that state, a being of infinitely greater purity, truth, moderation, and justice, than

even the *best* of men have ever been found in civil society, he must, indeed, have been happy in taking refuge from the law of nature, in that of civil society, however severe. In fact, it would appear, on the slightest view of this *natural state*, that in it, man as he is, could never have subsisted in what might properly be called a *state or fixed condition*. Each man *interpreting*, at least, if he did not *enact* a law for himself—and executing justice for himself against the offender, while the offender himself claimed an equally large jurisdiction on his part, must have involved men in a deplorable condition indeed, and one which might with truth be called, as it was by Hobbes,—a *state of war*. Locke, indeed, tells us that though thus in “the state of nature,” one man came by power over another, yet it was not an absolute or arbitrary power, to use a criminal when he had got him in his hands, according to the passions of his heart—but only to *retribute* him, &c.” yet by whom was he to be checked? He says, “by calm reason and conscience,”—but who was to punish the judge in his own cause for deciding, not by calm reason, but by the instinct* of his nature, and the passions of his heart?—The answer to this

* Locke, and the other writers who suppose the possibility of men living in a state of nature, as they call it, must hold very confidently the questionable doctrine of an innate *moral sense* or *instinct*. Paley, in his *Moral Philosophy*, Vol. 1,—20, treats

as collected from Locke himself, is, that “by thus transgressing the law of nature by a disproportionate punishment, he would have made himself dangerous to mankind—and thereby made himself obnoxious to all men, and that as all have a right to preserve mankind in general—mankind might punish such offender, and “*make him repent*!”

It is quite plain that this general right in mankind to attack and punish an offender, only shews still more clearly that men could never have lived under this most impracticable of all laws, the *law of nature*—that it is quite a creature of the imagination, and never did for a moment prevail among any class of mankind.

These observations, however, are perhaps here ill-placed, as they are superfluous to our purpose; for Locke himself admits, what indeed has led to this topic, that these and other great *inconveniences* arising in a state of nature do exist, and

this subject as he does all, with great good sense. After giving very fairly, the arguments on both sides of that question, he gives the result of them on his own mind thus:—

“Upon the whole, it seems to me either that there are no such instincts as compose what are called the *moral sense*—or, that they are not now distinguishable from prejudices or habits; on which account, they cannot be depended upon in moral reasoning—I mean that it is no safe way of arguing, to assume certain principles as so many dictates, impulses, and instincts of nature, and then draw conclusions from these as to the rectitude or wrongness of actions, independent of the tendency of such actions, or any other consideration whatsoever.”

“he easily grants that *civil government* is the proper remedy for them”—though he urges at the same time, that this objection does not lie in the mouth of those who contend for *absolute monarchy*—for the absolute monarch is always judge in his own case. To the objection that no society of men ever did or could exist in such a state of nature, he answers by referring to the “rulers of independent communities, who are,” he says, “with respect to each other, in a state of nature, having no superior law to which they are subject”—forgetting, that the governors of civil states represent those states, and have thereby the *power* of self-defence, and of enforcing obedience to a ‘*law of nature*,’ i. e. a rule of natural justice and reason—which power, individual man in a state of nature has not—and, moreover, that the *jus gentium*, or law of nations, by which those sovereigns are bound as to each other, is made and agreed upon with a view to their case. He instances also, as proof that a state of nature is practicable, that individual men sometimes meet and deal together, under circumstances such as are those of meeting in a desert island, mentioned by G. De la Vega, in his history of Peru, and such as those of the Swiss and an Indian in an American forest, where the *law of nature* only, he says, could be the rule of right; but it is manifest that the dealings between two individuals under no common government, contracting with each other, do

not make a *state of nature* at all similar to that which he supposes, affecting a nation, or large community; and also that individuals who may so meet and contract, are not acting under any thing at all like a law—they act on the mutual confidence they place in the personal probity of each other, or the power by which the one may be able to repel the aggression, or punish the bad faith of the other, perfectly independent of any law, or any thing analagous to it; nor could any inconvenience or mischief arise in such a case.—For the whole of this, see Locke's chapter “On the state of Nature.”

Locke, in his chapter on the State of War, throws some additional light on his doctrine as to the state of nature; and very clearly shews that between a *state of nature* and a *state of war* there is a *very minute* difference indeed, and that, at all events, as he had already admitted, in the passage alluded to, *the state of nature was such, that to get rid of the evils inseparable from it, men were obliged to take refuge in civil society and government.*

He there endeavours to prove that a state of nature is not, as it is called by Hobbes, a state of war, for this reason, section 19, because “in a state of nature men may be in a state of peace, good will, mutual assistance, and preservation”—and a state of war is one of “enmity, destruction,” &c. But the question obviously does not turn on what may be a state of nature under *certain conditions*;

but what in its *genuine nature and tendency* it is : just as when a state of war exists between two armies, there may be moments of repose, or a suspension of hostilities for various reasons ; but the state of *war* continues to exist, though the parties are not in immediate *act*. So, in what is called a state of nature, where there is no *law* but *reason*, which, at the will of either, may be instantly superseded by an impulse of any of those passions, or instincts, or false views of interest, &c. which are perpetually actuating the great mass of mankind ; and where for defence against such aggressions as any of them may dictate, there is no resource but *force*, and the *stronger* must be the *victor*, without appeal or redress—what difference can there be between such a *state* and a state of war ?

But the question *we* are upon, namely, the end and object of civil society, is settled by Locke's own admission, section 11, of this chapter. He has this passage—

“ To avoid this *state of war* (a state in which there is no common judge between the parties, and where, if violence be offered by the strong to despoil the weak, the strong must prevail), wherein there is no appeal but to heaven, and wherein every the least difference is apt to end, where there is no authority to decide between the contenders, is one great reason of men's putting themselves into society, and quitting the state of nature.”

Again, chapter 7, on Political Society, 1st sec.—

"God having made man such a creature that, in his own judgment, it was not good for him to be alone, *put him* under strong obligations of *necessity, convenience,* and inclination to drive him into *society,*" &c.

He, in the same chapter, states with accuracy in what political and civil society consists, and what he means by the state of nature :

"Those who are united in one body, and have a common established law and judicature to appeal to, with authority to decide controversies between them, and punish offenders, are in civil society one with another. But those who have no such common law and judicature, I mean on earth, are still in a state of nature, each being, where there is no other, judge for himself, and executioner."

Again, chapter 8, 2nd book—Of the beginning of Political Societies—

"Men put on the bonds of *civil society*, and divest themselves of their natural liberty by agreeing with other men to join and unite into a community, for their *comfortable, safe,* and *peaceable living*, one amongst another, in a *secure enjoyment of their properties*, and a greater security against any that are not in it;"—*(i. e. of that community.)*

Again, in chapter 9, Of the ends of Political Government, he states still more distinctly and emphatically the reasons for which civil society was instituted.

"The enjoyment of the liberty, &c. of a state of nature is very uncertain, and constantly exposed to the invasion of others; for all being kings as well as he (the individual man), every man his equal, and the GREATER PART no strict observers of EQUITY and JUSTICE, the enjoyment of the PROPERTY he has in this state is

very unsafe and insecure. The great and chief end, therefore, of men's residing in a commonweath, (civil society,) and putting themselves under government, is the **PRESERVATION OF THEIR PROPERTY**—to which in a state of nature there are many things wanting ;”

and he then enumerates some of those wants, and among them that of a *known* and *established* law, &c.

“Although the law of nature be intelligible to all rational creatures, yet men, being *biased* by their interests, as well as *ignorant* for want of studying it, are *not apt to allow of it as a law binding* on them, *in the application* of it to their particular cases.”

Here the *law of nature* is expressly *abandoned* as a *law*—its utter inefficacy abundantly admitted.

To the above objection to its validity Locke adds, secondly, “The want of a known and indifferent judge ;” and thirdly, “The want of a *power* in the state of nature to back and support the sentence when right.”

Thus, then, we have in various ways, the admissions of Locke, in substantial concurrence with others, that a state of nature is a state of war, where *violence, injustice, the want of law, and power to enforce right, or preserve property*, compel men to fly from it to *peace and security* in civil government.*

* If an Irish reader wants a still further proof of the truth of this doctrine of Hobbes and Locke, that “the state of nature is a state of war,” (and which we shall find confirmed by the opinion of other writers,) I beg of him candidly to ask himself how many

VATTEL.

The law of nature, says Vattel, consists of "all the duties and rights which NATURE prescribes and attributes to man in general, as being naturally born free, and bound to each other by no ties but those of NATURE alone." Preface to Vattel's Law of Nature and Nations, citing Wolfe; preface—"The law which arises from this application, and the obligations resulting from it, proceed from *that* inimitable law founded on the nature of man."—*Ibid.*

On the essence of civil society, he says—

"It is *essential* to every civil society (*civitati*), that each member have resigned a part of his right to the body of the society, and that there exist in it an authority capable of *commanding* all the members—of giving them laws, and of *compelling* those who should refuse to obey."—*Ibid.*

hours would elapse, if civil power ceased to exist in Ireland, and that the Irish people were thereby placed under the protection or restraint of the *Law of Nature only*,—how many hours, I say, would elapse before the starving populace (even under the guidance of *lay*, and, perhaps, of many *spiritual* leaders) would, by the *right* of the *strongest*, have made war and seized on every rood of ecclesiastical property, and plundered every shilling of lay property belonging to the upper and middle ranks of society throughout the whole extent of the Island! Would not the *maxim*—the emphatic *watchword* of rebellion—of the great leader—"WE ARE EIGHT MILLIONS!" be tocsined from Cape Clear to Giant's Causeway—and pillage and murder stalk through the land! Why are the millions mentioned but for a warlike purpose!

Further explanation of the *necessity* of *civil society*.

"Now, although Nature has indeed established a general society between mankind, by creating them subject to *such want* as render the assistance of their fellow creatures *indispensibly necessary* to enable them to live in a manner suitable to men; yet she has not *imposed* upon them any particular obligations to unite in civil society, properly so called. And if they obeyed the injunctions of that good parent, their subjection to the restraints of civil society would be unnecessary. It is true that, as there does *not* exist in mankind a disposition voluntarily to observe towards each other rules of the law of nature, *they have had recourse to a political association as the ONLY adequate remedy against the DEPRAVITY of the MAJORITY—the only means of securing the condition of the good, and repressing the wicked.*"*
Ibid.

Next to Hobbes, Locke, and Vattel, we may take

MONTESQUIEU.

I admit *Montesquieu* teaches a doctrine directly opposed to that of *Hobbes*, respecting the habits

* From Vattel's preliminaries to the Law of Nations, sec. 10, on the general law of *natural* society among men—

"The general law of that society is, that each individual should do for the others every thing which their necessities require, and which he can perform without neglecting the duty that he owes to himself—a law which all men must observe in order to live in a manner consonant to their nature, and conformable to the views of their common Creator—a law which our own safety, our happiness, our dearest interest, ought to render sacred to every one of us."

But may it not safely be added, by way of scholium, that in fact this is a law which never was and never will be acted upon, or obeyed by any number of men in the state of *natural* society—i. e. bound by no other law *than this*?

and tendencies of man in a state of nature ; but his theory appears unsupported by facts—and indeed upon a short consideration of admitted truths, and of what passes every day under our own eyes, his system is fallacious ; yet, on the whole, there is to be found in Montesquieu, what will concur to support the inferences I seek to draw from these authorities.

According to Montesquieu, the laws of nature are those *which are derived immediately from the constitution of our being*. To form an idea of those laws, [Esp. des Loix, Vol. 1, p. 5-7,] we must, he says, “contemplate man as existing before the establishment of society.” And he proceeds to say, that the *first* of those laws in importance, would be, one which *leads to the contemplation of the Creator*. This, clearly, must be an inaccuracy ; for it is at least the substitution of an *impression*, or an *instinct*, or a *conjecture*, or, if you please, the knowledge of a fact, for a LAW, which is in its nature distinct from all of those. His very next sentence, too, contradicts his own theory ; for he asserts that “l’homme dans l’état de nature auroit plutôt la *faculté de connoître* qu’il auroit des *connoissances*—il est clair que ses premières idées ne seroient point des idées speculatives ; il songeroit à la conservation de son être *avant de chercher l’origine de son être*.”

It would seem that his next notion of man in the savage state, (he means the state of the

*solitary** savage) is equally untenable as the former. He says—"Man, in such a situation," (namely, one who was solicitous only about the preservation of his being) "would, in the first instance, feel only his weakness, and his timidity would be extreme; and in such a state (and here he inconsistently supposes the savage not solitary, but among brother savages) *each* would feel himself *inferior* to his neighbour—scarcely could one be found who would feel himself *equal*—and so far from seeking to engage in mutual attack, peace would be the law of nature." Nothing can be more improbable than all this—that a full-grown, healthy savage, with all the vigor of savage health about him—one, who, if he were not newly born, must have sustained himself in the preceding period of his being by the labor of the chase, or in combats with the beasts against which he had to wage war for his defence or his sustenance! that such a being should be shy and modest, timid to a degree that would induce immediate submission to every competitor or contemporary, and that his *law* should be *peace*, while the whole animal creation, that live by prey, would be at war with *him*! But the whole of Montesquieu's notions on this subject are as singular as they appear to be erroneous. They can be accounted for only by his

* For he refers for illustration to "le sauvage qui fut trouvé dans les forêts d'Hanover & que l'on vit en Angleterre sous le regne de George I."

supposing what is incredible, namely, a full-grown savage appearing in the world at the first moment of his creation, without knowledge, experience, or even an impulse to activity or desire of food, or animal enjoyment from any instinct of his nature!

Montesquieu adverts to the different opinion held by *Hobbes*, whose work had been previously published; and he endeavours to reconcile the theories by supposing that Hobbes may have intended to attribute to man the attributes of *war-like tendency*, after the establishment of civil society, which then suggests, he says, "for the first time to mankind, *motives for attack and defence* which are not known to belong to him before such societies were formed!" as if the hungry savage, or the healthy one, stung by the animal instincts of his nature, could be at a loss for a motive of attack to procure food, or the enjoyment of animal indulgence, the greatest and only good which he was capable of enjoying.

But if Montesquieu differ from Hobbes as to the early tendency of mankind to a state of war, it is a difference only with respect to time; for in his next chap. p. 9, he says, "*sitôt que les hommes sont in société, ils perdent le sentiment de leur faiblesse, l'égalité qui étoit entre eux cesse, et l'état de guerre commence.*"

Thus Hobbes contends that the state of war exists in the state of nature; Montesquieu, that it begins, not precisely in a state of nature, but as

soon as men enter into civil society, and that the reign of law commences! How lamentable is it; then, that man did not continue in his state of nature!—happy in the contemplation of the attributes of his Maker, and in a state of perfect amity and safety among his savage brethren! One thing, however, is doubtless, even on the authority of the French philosopher—namely, that a state of war among mankind *very early* commenced, and that this state of war led, as the chief cause, to the necessity of establishing *laws to maintain civil rights, and public and private peace.*

ROUSSEAU.

This ingenious French writer, though possessing no very high character for political wisdom, has yet, in his celebrated essay on the Origin and Foundation of the inequality that exists among men, expressed so happily some opinions connected with the early history of man, and the state of nature, that I shall be forgiven, I believe, for extracting his opinion on the passage in Hobbes, respecting the habits of the savage—and from which, as we have seen, Montesquieu dissents.—Page 85 of 3 Vol. of his Works.—Ed. 1764.

“Hobbes pretend que l’homme est naturellement intrepide—et ne cherche qu’ a attaquer et combattre—Un philosophe illustre [Montesquieu] pense au contraire (et Cumberland* et Puffendorf

* Cumberland ranks very low as jurist or philosopher. His work was written with a personal or sectarian motive, and it would be useless to occupy the reader’s time with quotations.

l'assurent aussi) que rien n'est si timide que l'homme dans l'état de nature—et qu'il est toujours tremblant et prêt à fuir au moindre bruit qui le frappe, au moindre mouvement qu'il aperçoit.

Cela peut être ainsi pour les objets qu'il ne connoît pas, et je ne doute point qu'il ne soit effrayé par tous les nouveaux spectacles qui s'offrent à lui, toutes les fois qu'il ne peut distinguer le bien et le mal physique qu'il doit entendre, ni comparer ses forces avec les dangers qu'il a à courir—mais l'homme sauvage vivant dispersé parmi les animaux et se trouvant de bonne heure dans le cas de se mesurer avec eux, il en fait bien la comparaison et sentant qu'il les surpasse plus en adresse qu'ils ne le surpassent en force, il apprend à ne les plus craindre. Mettez un ours ou un Loup aux prises avec un sauvage robuste, agile, courageux, comme ils sont tous, armés des pierres et d'un bon bâton, et vous verrez que le peril sera au moins reciproque, et qu'après plusieurs expériences pareilles les bêtes féroces attaqueront peu volontiers l'homme.

And page 91, he says, of savage man become a member of society—

En *devenant sociable et esclave*, it devient foible craintif rampant, &c.

In his opinion as to the *origin* of civil society and laws, he agrees with those who think that the protection of property was the motive as well as the great object of man in giving up his natural liberty for the security of civil government.

"Pa. 139.—Le premier qui, ayant enclos un terrain, s'avisa de dire '*ceci est à moi*' et trouva des gens assez simples pour le croire, fut le vrai fondateur de la société civile"—and he assigns as the reason, "because, where there is no peculiar *right* or *property*, no *injury* can be committed"—"il ne sauroit y avoir d'injure ou il n'y a point de propriété."

And again, page 158—

“De la culture des terres s’ensuivit necessairement leur partage—et de la propriete une fois reconnue, les premieres regles de justice.”

163—He states that the cause or motive of civil societies and law, was to prevent the conflict and warfare which the struggle of the strong against the weak for property produces, when the latter was the first occupant.

“Il s’elevoit entre le droit du plus fort et le droit du premier occupant, un conflict perpetuel qui ne se terminoit que par des combats et des meurtres. La societe naissante fit place au plus horrible etat de guerre.”

Rousseau was too much of a false *liberal* to give to civil government and society their due praise as benefactions to human kind; but he depicts fairly enough the manner in which both came to be adopted by mankind—to protect property for the proprietor against the violence and robbery of the stronger claimant.

PALEY.

We now appeal to PALEY. We shall find him denying expressly, that governments are to be considered as founded on actual compact previously entered into between the members of the future society. And I conceive that in doing so he speaks

the language of truth and reason, and, in fact, does not contradict *substantially* the opinions of Hobbes and Locke; for however their expressions may appear to convey the idea of actual compact, they certainly do no more than *assume* that governments have been resorted to, and that men *have submitted to them, in order to avoid the evils which must arise from a state of nature*, (that is, a state in which man may be supposed to exist without the protection of positive laws, sanctioned by power to enforce them,)—and to secure to the governed, that efficient protection from the combined force of society, and which without the union produced by a government of law, never could be either obtained or preserved. The language of Paley, therefore, really does not contradict the political writers who preceded him on this subject of compact. And as to the rest, Paley and they agree, that the *benefits and aims* of government are those which Locke and Hobbes, and indeed all other writers on the subject mention, namely, to protect *life, liberty and property* against the violence and the crimes which man in his individual and independent state must suffer from man.

In the 1st volume of his *Philosophy*, 127, he states the same doctrine as to the indispensable necessity for the institution of civil government, to effect the purposes essential to society among men. He instances in the particular article of property.

"It prevents *contests*. *War and waste tumult and confusion*, must be *unavoidable and eternal* where there is not *enough* for all and where there are no *rules* (laws) to *adjust* the division." All these therefore—*property, rules, laws*, and satisfactory *peaceful division* of property, are derivable *only* from a *civil government* with FORCE and POWER to COMPEL obedience to its decisions.

After discussing the usual modes by which it had been imagined that "the *right* to land" *first* arose, he concludes by averring that "the real foundation of our *right* to it is in the *law of the land*,"—Vol. 1, 138, which amounts to an avowal that by the law of nature, as it is called, (*i. e.* a state prior to the institution of civil government,) no right or *property in land* could have been acquired, and that therefore the necessity of acquiring a defensible property in it, so essential to the well-being of man, was, among others, a cause of men entering into society.

JUDGE BLACKSTONE.

This writer had for the object of his great work, the common law of England. He affords little *direct* aid to the enquiry which we are upon—either towards tracing the *origin* or developing the first *principles* of *civil government*. By implication, and inference, however, we derive from him quite enough to prove his assent to the general posi-

tions which we have been able to extract from the other authorities referred to. He is not adverse to the doctrine of *compact* between the governors and the governed as the foundation of civil power. This appears from a passage in his 1st vol. of the Commentaries, 213, where, speaking of the principles of the revolution of 1688, he says, "when- ever a question arises between the society at large and any magistrate [sovereign] vested with powers *originally* DELEGATED *by that society*, it must be decided by the voice of the society itself; there is not on earth any other tribunal to resort to." In treating of the title of the king, he endeavours to shew that *treaty* or *compact* or *consent* which is tantamount, is the origin of monarchical government in England. He states, indeed, that the title of the king is hereditary, and enumerates the particular title that each prince from the time of the heptarchy, made out to the crown. He begins with Egbert, in the year 800, being *in possession* of the throne of the west Saxons, by descent from ancestry for 300 years—he eludes the question *how* the *ancestor* acquired it—but reposes on the doctrine that the title 'must have been a good one because we know no better'—that he acquired the other kingdoms of the heptarchy, some by *consent*, and most, by a *voluntary submission*—both evidence of *implied compact*. But, after tracing at some length, this title to the crown, through several successions,

he admits that he is obliged to refer the origin of the present title to (what is no uncommon origin of kingly government,) namely, *force*. He therefore drops the race of Saxon kings, and derives the descents of the new stock, from William the Conqueror, who acquired the throne by 'right of war'—a strong and undisputed title to an inheritable crown. Now, though absolute *conquest* by *force*, excludes all presumption of *compact*, so far as regards the actual conqueror,—yet the voluntary submission of the nation to his successor, evidently suggests an implied compact between the governed and the ruler, viz.—that the nation should be governed in such a way as to assure safety to life, liberty, property, &c. which constitute the only motive for instituting civil government.

When, however, he comes to treat of the revolution of 1688, we have more direct aid from him. Indeed the nature and circumstances of that event including the bill of rights, and the accompanying act of legislation, (however objectionable the *management* of the transaction certainly was in many respects,*) place the nature of the compact between the ruler and the nation with us, on very intelligible and sufficiently distinct grounds—they go to establish, as to the English people, the two main points for which we have referred to the pre-

* See note B, in Appendix.

ceding authorities—namely, *first*, that civil government is resorted to with the view of securing to the governed, life, liberty—the rights of property, &c. by *laws* equally binding on the high and the low—the crown and the people, and *secondly*—that the lower orders of society are not ranked among those who are entitled to exercise *any power in or over the civil government of the state*. The *first* is proved by the fact truly alleged and approved by Blackstone—that the one monarch was deprived of his crown, because he endeavoured to subvert the *rights* of the nation, and another taken in his stead by an altered line of succession, on an express compact to regard and preserve those rights.—The *second* is proved by the fact, with equal truth stated by Blackstone and with approbation, that this great event was the *act* of the *nation*, and of the nation alone—and yet the *people at large*, and therefore emphatically the *population*—the *lower orders*,—were in no way whatever consulted or appealed to upon this *national* question of *civil government*—nor suffered to exercise *any* degree of power or control whatsoever, in or over this great, fundamental measure, affecting vitally, the highest interests of every part and parcel of society. On the contrary, the whole of that ever-memorable proceeding was originated, carried on, and completed, by a gratuitous assemblage of persons, of the *rank* indeed, from which the legislative body *had been*

chosen—the rank which stood highest for wealth, talent, knowledge, experience, and public virtue.

It would be quite superfluous to add to those authorities, for the purpose for which we use them. The names we have given are of the highest order, and however they may appear in some respects to conflict on some theoretical points, it is hoped they have been shewn substantially to concur in those for which only they have been cited.

SECTION III.

WHAT, then, on the whole, do we collect from those authorities to forward our enquiry? Certainly thus much at the least—

That whatever may be understood by those writers as to the state of nature;* whether it be man in the state of a solitary savage, be he bold or timid—ferocious or docile—or, man in a state in which a number of savages herding together, unconnected by any express or specific laws, and governed only by their appetites and their instincts—or whether it means a savage society, ignorant indeed, of all the just principles of law and government, but united by some barbarous customs which necessity may have forced, or induced them to adopt—or, again, whether before or after any fixed principle had constituted property of any kind in any of their scanty possessions—we are, in any of those interpretations, warranted to conclude that

* Note C, in Appendix.

those early inhabitants of our globe found it necessary from time to time, and most probably at the same time in different regions of the earth, over which they may have been scattered, to adopt, not a perfect code of municipal law, but regulations more or less efficient as the makers had more or less shrewdness or foresight, in order to restrain personal violence, and to give or secure to individuals an acknowledged right to possess and use—perhaps to transmit—what they did at the time possess, or might by their productive industry, afterwards acquire. We may, I say, from the authorities we have been considering, and taking any of their meanings of ‘a state of nature,’ come to this safe result—that civil societies must have been formed or entered into—and government, by the law of those societies, adopted or submitted to, (whether imposed by force and conquest, or by the free will of the majority of those who composed such societies,) for the purpose of defending and protecting the few against the many—those who were in possession of property—or those who were inclined to obtain it and possess, by their labor, industry, or providence—against those who were physically strong; and neither had property, nor were influenced by the *safe* virtues by which it could be obtained without injury or a violation of *natural* justice to others.

Nor is it at all material whether, as some writers

imagine, it was by the institution of a *right* to exclusive property, *after* the formation of society, that discord and violence were introduced or increased among mankind—or whether the *right* of property was established in order to prevent controversy and conflict about the *possession* of it, as is the opinion of others—for, in either case it is agreed by all, that civil government, with all its awful forms and resistless force, was and must have been, if not *originally* constituted by *express* compact, at least ultimately submitted to and adopted by the various assemblages of mankind who have ultimately formed the nations of the world, for the great object of securing life, freedom, and the power of quiet enjoyment of lawfully acquired *property*, in the strict sense of *that* word, against the violent, the strong, the idle, and the reckless!

But, without endeavouring to ascertain *how* or *when* or upon what principles, the earliest associations of mankind were formed, may we not arrive at the same conclusions by analyzing society as it exists at the present hour? for, let us examine with the slightest degree of attention, the various political assemblages of mankind throughout the world, where any regular organized government exists, (excepting, perhaps, such an anomalous one as Ireland apparently is, in a state of *transition* from civil government toward anarchy, and where law appears to have lost—or to be losing daily, all its binding force,) and we shall find that the main

object of civil rule in all is, to maintain and vindicate the rights of property, and secure personal freedom and safety—to defend the peaceable *possessor* against the violent spoliator—the weak against the strong—the power of the law and civil right, against the outbreaking of physical force and the tyranny of the multitude! It matters not, what is the *form* of the government—or the elements of the political constitution of the particular state—in ALL, the ends of civil government as to the relative rights and enjoyments of its citizens are the same.

Can we then, after what history and our own observation alike teach us—after a fair consideration too, of the import and value of the authorities to which we have referred—can we, I say, entertain a rational doubt that there is perpetually operating in all large societies of men a principle of competition—of conflict and adverse interests, rightly or wrongly understood—a feeling of jealous cupidity—a love of power and wealth—of ease and pleasure—or of honor and distinction, sought by each individual man *adversely*—or, so far as regards the multitude, in disregard of the interests of all other men with whom they may come in contact? Let this state of man be contemplated as unchecked by the control of any law of any civil government having *power* to enforce it—I would then ask, whether the word *war* designates *that state* with intelligible accuracy and truth! Is it

not, in fact, a state in which there is a constant, though not always visible operation tending to produce *conflict, violence, spoliation*? And is not this state of man, and under this principle, what is fairly and justly called by the jurists, a *state of war*! and does it not in effect really deserve that or some equivalent denomination? If this be denied, then I ask, why is there in every state a public force—a military body—a soldiery or a civil police? If it be not war why is the military array? Why an army of 10,000 police in London, and of soldiery and police between 40 and 50,000, in Ireland? Is it to restrain the rich, the titled, the educated, the peaceful—from assaulting the wretched, the houseless, the naked, the labouring poor? Is it not rather to prevent the MULTITUDE, the POPULACE, the *οι πολλοι χαχοι*, the *major pauperiorum turba*, from rising in physical force, either in large bodies or small, against the higher and the better orders—the successfully industrious, the wealthy and the great—the laws—the peace—the institutions of society?

Let us put the question to this test. Let the reader suppose the military and civil force at present existing, say in Ireland, at once disbanded, and universally known to be so—and suppose the nominal executive without force of any kind to support it, residing at the seat of government—the Castle of Dublin—suppose also, the officers of jus-

tice—the judges and the magistracy remaining to administer justice as they might, unsupported by force. What, in such a case, I ask the reader, would almost instantly occur? For myself I entertain no doubt it would be *war*—plain, undisguised war, accompanied by massacre and plunder! In this war who would be the belligerents? For myself, I again answer, the populace on one hand—the populace inflamed and stimulated by some who, but for the passions, and hopes, and wishes which we have seen produce the *tendency* to war in the *state of nature* and absence of civil control, ought to rank above the populace; *they* would be the belligerents on one side, against the infinitely less numerous body, the wealthy, the educated, the good, and the wise—those among whom are found, generally, the virtues, the knowledge, and the talents of a people.

And what, may I again ask, would be the result of such a war? In the first instance, rapine, rape, murder, the violation and spoliation of all that now makes civilization, property, peace, liberty, and order inestimable! *Anarchy* would supersede for a season every known form of government, but it would do so for a short time only. The intelligence, the prudence, the steady valour of the educated and higher orders of society would, and not tardily we should hope, find in those qualities the means of rescue from the brute force of the multitude, and create a new, or renovate the old form of civil government, founded on that *force* and *power* which

is and ever must be the accompanying guardian of social order. But should even the brute power of physical force prevail for a longer season over the power of that higher order—a power which, consisting in knowledge is, in the ultimate event, almost always successful; yet the sad lesson would most impressively again demonstrate the truth of the principle which we have been discussing, namely, that *the evils of anarchy always compel men to resort to civil government and its force as their refuge*; for should the mob-leader, whether an O'Connell or a more determined foe, could such be found, to civil order, become completely victorious over the peaceful, the wise, the wealthy, and the virtuous portion of the community, yet, savage as might be his mob, even in such a state of nature as we have been imagining, the necessity for *some* government, and that, too, founded upon *force*, would finally become evident, even to that very mob—a necessity arising immediately from the destruction of the preceding one. Even that very mob itself must put an end to the *anarchy* they had produced. At the desire of the leaders whom they had followed in their crimes, they must do this, to prevent universal, unintermitted, and promiscuous murder and rapine! The spoliators themselves must tend to restore some species of government and order, though only to secure to themselves the power of enjoying the fruits of their spoliation: they must

for *anarchy* substitute one or more *despotisms*, or submit to the *tyranny* of some robber more powerful or more popular than the rest; they must, by submission to some *rule*, to some *power* able to restrain for the moment the *warlike* tendencies of ungoverned man, give pause to their crimes! It is hence that revolution would probably succeed revolution in rapid succession, as we have seen them do in recent history; and hence the quick transition of the revolutionary leader from the rostrum or the tribunal to the scaffold or the guillotine, till humanity would sicken at the spectacle, and man become disgusted with his species!

May we yet, for a moment, exemplify the result which a course of things, such as we have been considering, would produce if it occurred in Ireland? It may assist to render the subject more easily comprehensible to a British reader. Let, then, this supposed revolutionary series begin by a revolt of the physical force of Ireland—under the auspices of O'Connell, on the "justice" which he claims for "Ireland" being refused. The supposition is not an unnatural one if, as he has frequently required, we "remember the eight millions!" Let us suppose that this revolt commences by a general rising of the Irish populace to compel a dissolution of the Union with England, or because England shall refuse to abolish the second of the three estates of her legislature by reforming her peerage

into a "representative" and "responsible" body—responsible to this same Irish populace, whose claim to this *justice* Mr. O'Connell asserts! This would be a revolt against the existing civil government, the king, lords and commons of the British empire. As this supposition rests on the assumption that the revolt is under Mr. O'Connell's auspices, the revolt would certainly not remain a mere tumultuary outbreak of the populace without organization; there would soon arise *some* government in Ireland, under the rule of the instigator or director—say, of course, O'Connell and his *STAFF*, if there were *courage* to commence the revolt by a military movement in the field—or, O'Connell and his *council* in the closet, should it begin with some plot or assassination! Eventually, however, whether headed by a coward or an assassin, covertly or openly, it must be a revolt against such power as the executive government in Ireland, possibly with such a viceroy as Lord Mulgrave presiding, might think proper to oppose to the revolters. We must, in such a case, suppose, that under the lenient and popular government of such a ruler, the physical force of the 8,000,000 *so* put forward, and *only* so opposed, must be for a time successful. The tyrant demagogue would, no doubt, have *his* legislative assembly—(no *peerage*, however)—*his representatives* of the people!—elected by a revolutionary tribunal, or under the more peaceful intimidation of a death's-head and cross-bones.

Short parliaments he would have, and *short* they certainly would be made, if not by the fiat of the demagogue, yet as effectually by the rapidly successful *dissolutions* prescribed by whatever section of the eight millions might for the time have dominant influence. The rebel chief, however, would still lead the movement, until by some new and bloody struggle, his own head should roll in the field or on the scaffold. Even, then, his place might be filled by some descendant of a royal race of Irish blood, until the spoliators of the church or the discordant claimants of the forfeited estates, or of the private wealth of the loyal and slaughtered subjects, should unite to supersede him !

But the bloody farce would quickly end. Soon, very soon, would appear the tendency of the savage multitude, or the satiated plunderer, to fly for refuge from scenes of crime and danger to the protection and repose of lawful civil government. If England should not herself have fallen in the revolutionary conflicts, we should soon have another example of *how* civil governments arise and are generated from the savage state. Either English power would be resorted to by afflicted and impoverished Ireland for aid and a government—which she would grant—and Ireland would become at last a *willing* portion of the British empire—too happy in finding a respite from her sufferings in English law and power—or, England might, for her own

peace and safety, take the lead, and *force* the benefits of civil government on the maddened populace of Ireland, by the right by which the conqueror of England forced his government on *her*—a bloodless conquest, perhaps, in the case we are supposing—Ireland taking refuge, nothing loath, in this deliverance from the worse than savage state in which she had been imbruted.

Let not the reader be led to believe that I am now inveighing as a political disputant, merely to expose or criminate the public conduct or dangerous principles of O'Connell—I at present intend no such thing. I only now seek to deduce an illustrating argument from the state of affairs, and of the temperament of the public mind, which I have been supposing, to shew that civil governments do arise, and might naturally arise in the supposed case, on the principle which I have been suggesting.

But to proceed—

Already we have, I conceive, arrived at one safe and certain conclusion, namely, that there is in the nature of man tendencies, passions, instincts, which, when he is free from the restraint of laws enforced by adequate sanctions, impel him to satisfy those tendencies, passions, and instincts, without regard to the claims of his fellow man, and which, therefore, are calculated to produce violence and war between them.

We have also, I think, become satisfied that civil government, when armed with a sufficient power to enforce its regulations, can alone restrain this state of violence and war, and secure to every man who unites in, or submits to such civil government, the just enjoyment of those rights and possessions, which, consistently with the regulations of that government, each individual shall be declared entitled to.

And, finally, that all existing governments, whatever may have been their origin—whether usurpation, conquest, or actual submission and compact—have for their objects the ascertainment and secure enjoyment of those rights; and that *this* is the true motive for which men actually submit to those governments.

So far, then, we have ascertained and acknowledge the true principles of civil government.

But is it not equally certain—must it not be so, from the very nature of society, as we have been considering it—that besides the ascertainment of social rights, and the present enjoyment of them; there is another, a fundamental and necessary principle of all good and really valuable government, and which must be its main basis—I mean the *principle* by which its PERMANENCY is secured?

Of how little value would it be, either to a nation or an individual, that *for the present*, or for the existing year, or the life of any given person, there

was a reasonable certainty that the liberty, property, and privileges of the nation or the individual were fully and adequately protected, but that beyond that short term all was uncertain and insecure?

Who would say, that the society which did not secure the permanency, as well as the present security of freedom and life and property to its members, rendered a fair equivalent to them for the surrender of themselves to all laws which such society might enact? Who, in fact, would submit to the government of such a community, if he could exercise any discretion on the subject?

If this be so, does it not therefore suggest another principle of vital importance in the frame of any government, namely, a principle, by the constant operation of which its duration may be rendered as probably lasting as an human institution can be—that, at the least, the *most obvious* danger that threatens its dissolution should be made an object of special care and solicitude, in order to obviate it?

Permanency, however, is but a *quality* of government, not a *principle*. It is the principle we seek—that which governs, impels, guides, actuates. In endeavouring to obtain this quality of permanency, therefore, we must look for the *rule* or *guide of conduct*, by which if in the whole course of governing we shall be directed and influenced, we shall with certainty be constantly warding off a danger, adding to the stability of the governing

power, and preserving it, so far, in undiminished strength and vigour.

It is obvious to the reader that in thus pointing out the way to discover such a principle as we are in search of, we are not *making* nor *recommending* any particular *constitution* or *form* of government—we are but seeking that which, if found, will be equally applicable to *every* known form of government, despotism, monarchy, aristocratic or democratic rule. The principle I seek, however, is one which does not *preclude* a deliberate and well-considered change in the form of the government, whatever it may be, that is now existing in any civil society—it only presupposes that this existing government, which conquest, or compact, express or implied, may have given to any state, is a good one, and answering for the present, and during its existence, the true ends of civil government; and it seeks that in addition to whatever good qualities this government may possess, there should be added that of *stability* and *permanence*. If, indeed, in any such existing form of government, there be something which necessarily must tend to endanger the permanency and stability of it, the principle we seek, not only would not prevent, but would require the adoption of a corresponding change. In a word, it implies and suggests,* that in every existing form of civil society, being in all other respects good and fitting to produce the ends of civil government

in that particular state, yet containing something in its structure which has a tendency to endanger its safety in any way whatever, *that something* should be removed, or counteracted, by some checking or guarding power.

Let us, then, finally, enquire what *that* is which, in the constitution of all states, and in every government, if it at all exists, most certainly, and directly, *tends* to endanger the *permanency* of that government, so far as government aims at the general and legitimate end for which men have entered into society—namely, safety and protection for life, property, and personal liberty—and the secure enjoyment of the privileges which man in civilized society is entitled to. Further, what is *that* which necessarily and always tends to secure the duration of the government which is calculated to promote those ends?

When we shall have found *this*, we shall have arrived at the great fundamental principle we seek, and which should actuate and guide the rulers of a civil state ; for, to prevent the occurrence, or lessen the frequent occurrence of revolutionary change, must ever be that first and leading principle, so far as the security and permanency of good government is the object to be achieved.

We shall pursue this enquiry in the next section.

SECTION IV.

WE have already, I think fully satisfied ourselves by the authorities to which we have referred, that they establish the two propositions stated in the first section,* and that, from the constitution of man's nature, the great end, object, and duty of civil government, and for which men have fled from the dangerous liberty of, what has been called, the state of nature, to the bonds of civil society, is to protect the weak against the strong, those who possess property against the assaults of the spoiler, and life and liberty to all against unlawful violence ; and to do this by the *strong hand* of an executory power, directing and executing the just sentence of *efficient* law, and a just and *impartial judicature*. We have, therefore, made no trifling advance towards the discovery of that fundamental principle of which we have been in quest. In fact, it now remains for us only to ascertain by *whom*, or from *what particular portion* of the general mass of society, the evils, against which civil government is to protect society,

* Page 31.

are most likely to arise ; by what *class* is it reasonable to believe that violation of property, and danger to public peace, or to life and liberty of individuals, may be inflicted with the greatest possible mischief to the society in general ; for, against *that* class certainly, it must be the guiding principle of the governing power to direct its precautionary as well as its executory measures—and this not only for the sake of individuals who may become the objects of violence—but to preserve in safety the existence of the government itself.

Can it be long a question with us who those are that compose this dangerous class ? To what denomination or description of society do they belong ? Is not Property most likely to be invaded, when it may be done with impunity, by those whom poverty tempts ?—who, destitute of property, are equally destitute of means to acquire it by talents, knowledge, or industry ? What is the crime to which poverty tempts and points ? Spoliation, plunder. Who are they that fill our jails, for those offences against private property ?—The poor—the lowest order of society, tempted by famine or stimulated by vice, and unrestrained by any other feeling than the fear of punishment, and even that usually disregarded or defied. If Personal Safety from insult, violence, and ruffian force is to be the object of solicitude, by whom is it most likely to be assailed ? Is it not by the bold and reckless, who, safe in his

poverty against pecuniary punishment, and regardless of any other than that which may be inflicted on his person, feels comparatively safe in offering violence even to the *life* of others, that he may live himself; or, to gratify, by outrage and insult, a spirit of insolence against those who stand above him in the social scale, though not in his own estimation; is it not, to use the passage before quoted from Hobbes—He in whom “*inest voluntas lædendi, superiorem se aliis æstimans, et qui sibi soli vult omnia licere, et præ cæteris honorem sibi arrogat (quod ingenii ferocis est) cui igitur voluntas lædendi est ab inani gloria et ‘falsa sui æstimatione?’*” Is it not, in a word, from those who, if we were in that imaginary *state of nature* of which the jurists speak, would laugh at the rules prescribed by the law of that state which there is no power to enforce?—those who, being restrained by the law of society, while it subsists, must naturally be ready and watchful for all opportunities which a disturbed or subverted order of society affords, to snatch, what they cannot otherwise obtain, by physical force from the wealthy and the weak? or who, while civil government stands in the way of their crimes, must find the strongest motives to subvert that government itself? What then is this numerous class? By what name shall we designate it? Where are these dangerous men to be found but among the *Populace* of every country? the *bad many*! that class from which the seditious or the

rebel leader always derives his means of disturbing the peace and subverting the law which guards the interests of society, and places in their stead anarchy, or popular despotism ! Yes, it is to curb this *Populace*—the lowest rank in civilized society—the multitude—the poor—the vicious—the ignorant ; it is to protect us against *them* that society is formed ; and, therefore, we here find **THE PRINCIPLE** which we have sought—the **PRINCIPLE** which while it protects the individual members of the society from individual private wrong, tends, beyond any other principle in the social code, to secure the permanency of that government itself by which alone protection can be had !

The principle, therefore, announced as a rule is—

Exclude from sharing in the Civil Power of the state, and prevent from overawing it, the whole of that class which by poverty, ignorance, and the vices which they generate, have always been found to threaten the interests of civil society.

Such, I submit, is the main principle on which the **STABILITY** of good government *must* rest. It is the result of the whole of this enquiry. It is warranted by the theory of the jurist. It is supported by the uniform experience of ages ! It holds true in, and is applicable to, every species of government known to man—whether despotism, monarchy, aristocracy,

or the most democratic rule that the world has ever known. For, whether the revolution is from the iron rule of one despot to another, from the constitutional monarch to the tyrant, from the rule of lords to the people, or of the people to the aristocracy—the POPULACE—the *bribed*, or the *cajoled*, or the *infuriated* POPULACE, are the instrument—the senseless instrument of the revolutionizing power! If they are not roused into outrage, they are lulled or bribed into torpid indifference—they never have—nor are they capable of having, an intelligent, prudent, and patriotic feeling on subjects connected with public rule. Such subjects are too high and too holy for *them*!—those, therefore, who constitute the class in which the moral—the intelligent—the educated—the affluent—the men who have the greatest interests in good government, are to be found—are *they*, and they *only*, to whom the guidance of civil government *must be entrusted*.

But perhaps we may be told, that all this is *theory*—that it is the dream of the sophist in his chamber—not a principle derived by the practical statesman from his actual experience in public affairs, nor vouched by the common sense of mankind.

Should this be said, (and said it will be, with much beside, by the numerous opponents of this most unpopular principle,) the answer is at hand—not an answer in words, or depending on historical

inferences, or the ingenious or sophisticated reasonings of political jurists or philosophers—but by facts—facts existing at home—facts, unfortunately too numerous and too well vouched by the public evils which they generate, to admit of denial! The answer is to be found in the state in which we stand at the very hour in which I write!—a state, fully corroborating and illustrative of the arguments which, in the former part of this inquiry, we derived from the historical events in Europe during the last half century.

Let us take even a transient glance at those facts, and this state, and we shall be satisfied—not only that danger may arise hereafter, but that, at the moment, our state is dangerous—indeed in the highest degree alarming—and this, too, from the utter abandonment or total neglect of the GREAT PRINCIPLE which, if we have been right in our reasoning, ought to have held the first place in the consideration of the governing power.

Let us go step by step in proof of this position. Shall we begin with considering the general state of the empire, and trace downward through every constituent part of it? If so—the situation of the EMPIRE with respect to internal concerns—what is it? Let us first look to,

THE LEGISLATURE.

The two legislative assemblies are in a state of

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avowed conflict on questions vitally affecting the most important interests—the *church*—and the *municipal government* of Ireland—Ireland, from which has arisen all that is alarming and distressing in our state. With respect to the church, the question is, whether its property shall be spoliated :—with respect to the municipalities—whether they shall be so remodelled as to throw the government of them, that is, their whole weight and influence, into the hands of the seven or eight millions of Catholics, already much too powerful for the safety of church, state, or people—two questions which never could have arisen, but that those *eight* millions were summoned by the genius of evil to impend over the councils of the nation ! Is this state of conflict, furnishing, as it does, the most exciting topic for an unbridled population, and a *most* licentious press ? Is *this* a state commanding the respect of the public, or compatible with an efficient discharge of its legislative functions ? Thus swayed by the *power from without*—the power of the *Irish populace*—through its leader and his followers in the Commons—thus distracted by conflicting parties, and torn by intestine discord, is not your legislature convulsed and paralyzed to a degree that all but stops its vital action !

In the Commons House what do we find, as a representation of the people ?

We find it to consist of *three distinct parties*—**BRITISH RADICALS**—aiming at the total subversion of the whole constitution—in name, form, and substance—at the substitution of pure democracy for kingly government—at an abolition of the class of nobles, who can fall only with the monarchy—at an abrogation of all church establishment—and of those ancient and revered institutions in which our national religion in its purest form—and science—and literature—and all the virtues, public and private, which are congenial with them, have been nursed and cherished since England had a name among nations! Next comes the **BRITISH WHIGS**—once the founders of a free, rational, and Protestant constitution—the assertors and vindicators of an established Protestant church against the slavish and sottish bigotry of a Popish king—but *now* the ready and recreant partizans of an Irish popish population and priesthood—and the popish delegates of that priesthood and population!—delegates who come to the discharge of legislative duties, not only as puppets of a mob, but pledged and bound by two *opposing* and *contradictory*, but both *most solemn obligations*. The *first*, a pledge given at the hustings, virtually *against* the Protestant church; for it binds them to vote the *abolition* of its *legal maintenance*, *tithes*, and appropriate them to other uses. The *second*, an oath on *taking* their seats in Parliament, by which they swear, in contradiction to their solemn pledge,

that they will not use their parliamentary power to injure or weaken the Protestant religion, as by law established !

These two parties, the *British Radicals*, and *Recreant Whigs*, though congenial only in their wish to subvert the present order of things, the first upon principle, the second, for the love of place and power, unite against a *third* party—namely, those whose principles now are what those of Whigs of the revolution once were—an attachment to rational freedom in religion and politics—to the ancient and tried establishment of the country—the principles on which the revolution of 1688, was founded, but which the *present* Whigs have abandoned on all great questions affecting the general interests of the empire, and particularly the state of Ireland, in which the fate of that empire now seems to be involved. These parties vote—the two first (the Popish and the Whig party constituting their main force, for alone, the Radicals are nothing) against the third—thus, by small majorities, enabling the recreant Whigs to hold their places, at the humiliating price of being obliged, publicly and palpably, to acknowledge that they govern, not *suo jure*, but under and by the support of a party for whose *persons* and *principles* they are known—and indeed have for years, avowed—the most unqualified contempt and hatred !

For proof that such is the state of the legislature,

look to the proceedings of the representative body—their *proposed* laws—the *rejection* of them by the Lords—their *motions* and *notices** of motions—their *resolutions*—that particularly by which the House resolves on the APPROPRIATION of Church property, &c. &c. You there see *what parties* constitute the Commons, and whom and what they represent. Say, reader, when you thus view them, are there no symptoms, I will not say of *defective wisdom*, but of ripeness for revolutionary change? How long can such a state of things exist? When shall be delivered from the interference of the populace in our civil government? When shall the elements of strife cease to rage throughout the empire?

AS TO THE EXECUTIVE POWER.

Your executive ministers of the crown hold offices at the will, not of their royal master, but virtually that of Mr. Daniel O'Connell and his followers, *Radical, Irish, and Popish*, but mainly that of the *Irish population*, for without him and them the *Radicals* are but 'sound and fury signifying nothing.'

The *changes* in this organ of your legislative

* For instance, that for relieving the Bishops from attendance in the House of Lords—and that respecting the reform in the Lords, &c. &c.—that for expunging the former notice, &c.

wisdom have been so frequent, and have become of such ordinary occurrence that those who are the executive ministers at the moment at which I write, may, before these lines reach the press, be ministers no longer. *Their* successors may be as short-lived. There is no stability in the executive government of the British empire. Can, then, your government be strong, or efficient, or safe? What reliance can be placed on the *principle* of government, either as to foreign or domestic policy, when those by whom alone the *principle* of government must be *worked*, are subject to such rapid changes?—changes, too, which must always be the *cause*, or the *consequences* of change in the *principle* itself? But take the executive as it at present stands—and since they were forced on the sovereign by O’Connell and the *population*!—the 8,000,000!

Who and what are they? they are renegades from that political faith to which they not only publicly pledged themselves—but to which when before in office, they pledged also their sovereign! Four years have not elapsed since they made the sovereign, as his responsible advisers, to denounce from the throne, as a ‘Disturber of the peace of the empire, and his political principles, as inconsistent with public tranquillity’—that very man, under whom they now condescend, virtually, to hold their offices!—*him*, who now governs and directs their councils, and whose once exploded principle of

hostility to the Protestant church, they now humbly, and sedulously, and boldly adopt, and so far as in them lies, would embody in legislative enactments!

Again, *what* are they? they are the same identical men, whom their *present patron*, while they held to their *faith* and duty to the sovereign, to the country, to its church and their own character, publicly and to their faces, applied the epithets of, as *base*, *brutal*, and *bloody*! If the charge of *base* and *brutal* were *then* false, what must we think of it *now* when the whole plan and main principle of their public conduct is changed—when they have deserted their *then* principle, and substituted the directly opposite in its place? Have they, by this change, proved that the charge which was *then false*, is *now* become true, and a present charge of *baseness* established? If the charge was *false* then when they *opposed* him, is it *true* now when they have adopted *his principles*—endeavour to carry his *measures*?—it must always be remembered that it is *they* who have changed, not *he*! *They* have renegaded. They no otherwise differ now from what they then were, *except* that by betraying the principle to which they had pledged their sovereign, *they yet* and *thereby* remain his *ministers*!

The executive ministers, however, it is but justice to say, have uniformly offered one apology for this apparently unjustifiable course of conduct. It is this: that they have acted since their connexion

with O'Connell, not to obtain his support, but because the *sense of the people* was plainly declared in favor of the measures which they have endeavoured to carry. Let their defence be charitably received as true, with this single abatement—that for *people* should be read *populace*! It then recommends in a very signal way the PRINCIPLE we now rely upon as proved—namely, that the *populace* should be excluded from all power in or over civil government; for beyond all doubt it was the claim of the *populace*, not of the people—as comprising the upper orders—that called, nay clamoured, and still clamour for the destruction of the church, the spoliation of its property, the establishment of popish dominion throughout Ireland, and the repeal of all laws that tend to curb the intolerable licence of the mob, the press, and the priesthood!

This is perhaps, the *first* instance in which statesmen have been found to rest their justification of measures violating the plainest principle of sound civil policy and the most obvious dictates of justice and thus tending to dissolve the bonds which hold society together, by a *reference* and *submission* to the WILL of the POPULACE! Hitherto, or at least in former times, the men who held the reins of power under a monarch, irresponsible by a maxim of the constitution, acted on their own responsibility; they were bound to answer to their country, and to justify

their measures and their advice, on the merits of the advice or the measures themselves—not on the opinion or the authority of a mob. This is, perhaps, the *very first* instance in which the ministers of the crown pray in aid the multitude, and justify by urging the command, or the call, of the mass of the people—the *populace*! whose exorbitances *they* were appointed to restrain and correct—not obey as the supreme power!*

As to LAW and *judicature*—what is our state?

With respect to these, my observations will apply to Ireland alone; but Ireland, we are often told by Mr. O'Connell, contains EIGHT MILLIONS!—the awful burthen of his daily song! On Ireland may probably turn ultimately the fate and fortunes of England. Ireland has already shaken the British institutions, disturbed the most important functions of her government, and nearly convulsed her: Ireland, therefore, is not only an integral, but a vital portion of the British empire.

As to LAW, then. In Ireland there is none—but by the toleration of a popish populace—occu-

* Personal responsibility in the minister of the crown, unfortunately for the country, seems to have become obsolete. The loss of place is now the only punishment for the most flagrant and fatal malpractices of ministers against the public. If not, what a perilous reckoning would *some* men have now to settle with public justice?

pying the very lowest station amongst civilized mankind, as regards property, industry, intelligence and public morals ; a populace with O'Connell at its head, and indicating by his nod what shall and shall not be obeyed ! LAW has been defeated by *passive* resistance ; it has been *actively resisted* by force and fraud—and this, not merely a *penal* law, or a law of regulation, but the law giving and ascertaining, and which *ought* to be able to PROTECT, property—the security of which is the great object of civil government. Yes ! even *this* species of law has been annulled on the Proclamation of the populace—a proclamation duly published at the *altar*, or in the *field*, or in the *club* rooms, that spread through every corner of the island—a proclamation *that tithe should no longer be paid by the Catholic people !* Hence the law, by which the Protestant clergy of Ireland claimed, and until the King's ministers adhered to O'Connell, possessed, TITHE property, *now* no longer exists in Ireland. It has been so solemnly ruled by the priesthood and O'Connell. His rescript, his imperial will, has been announced, and this joint authority has been ratified by thousands, and tens of thousands, who have assembled with the *tacit* sanction, at least, of the ministers and the Law Officers of the crown, in counties, and cities, and towns, and parishes—in bog and in mountain—by day and by night ! At these *legislative* (or perhaps

executive) meetings, all tithe laws have been expressly declared void; and under the express, or the implied penalty of death to be inflicted by the PEOPLE—the payment of the “blood-stained” debt has been forbidden! “Blood-stained” it certainly has been! Stained by the blood of those, who, as legal claimants, or as officers of justice, acting in aid of law, and to enforce it, have been year after year sacrificed and butchered by a cowardly, savage, and ferocious population! “Stained,” *also*, by the blood of those, who, rashly acting under the evil counsel of the priesthood, or the demagogue, have rushed upon death, while murderously attempting to inflict *that* death on the *creditor* who made his rightful and peaceful claim—or on the authorised public officer of justice, who sought but to serve the law-process, by which the validity of the claim might be decided.

Not only have the populace thus superseded the law of property respecting *tithe*—the *Representatives* of the people have also, under the same auspices, affirmed the same principle of legislation! This has been done, not indeed in word, but in act. They have decided in more than one instance, that law, whether statute or common law, prescription or usage, cannot protect this species of PROPERTY from becoming a subject of what would once have been called *spoliation*—namely, legislative disposition, division, appropriation, or total extinction, without compensation to those who, by

LAW, were the rightful owners. It is true, indeed, the second branch of the legislature, the PEERAGE—the maligned peerage, have refused their sanction to this legislative robbery—to an unprincipled and unprecedented APPROPRIATION to one set of men, or of uses—of that which legally belongs as absolute property to others ! But, notwithstanding the heroic stand made by the Peers to defend the rights of property, what has been already done by the Commons under the auspices of O'Connell and the mob, whose *physical force* he threatens, sufficiently evinces the imminent danger in which we are placed, of a TOTAL subversion of ALL LAW and of ALL JUSTICE, under the influence of that power—that worst evil, against which all civil society has been invoked to protect us—the POWER of the POPULACE !

The LAW of landlord and tenant is in nearly the same debilitated and deplorable state, as that which once protected the property of the clergy ; it is nearly become a dead letter. The power of ejecting the non-paying tenant, or compelling by legal process payment of rent unquestionably due, can no longer, in very many parts of Ireland, be resorted to but at the peril of immediate murder, or subsequent treacherous assassination !

THE LAW PROTECTING THE CHARACTER OF PRIVATE AND PUBLIC MEN.—THE LAW OF LIBEL

• The same power that extinguished the church-

property-law, and nearly that of landlord and tenant, seems also to have extinguished that of libel, either for private slander or public mischief by seditious publications—obviously because it is the interest of him, who deals largely in both kinds, that there should be no remedy in either for the party injured! Mr. O'Connell has spoken *evil* of all that is *good* in human society, and *good* of every thing *evil*. SEDITION is a trivial error with him, if, indeed, it be by him at all reckoned among the class of moral evils: and as to LIBEL for slander on *private* life and *manners*, he announces, in his recent correspondence with the editor of the Times newspaper, that the best remedy for both is RETALIATION!—retaliation *in kind*!—not by action against action, to be tried in a court of justice, and before a jury and a judge, where *truth* and innocence might at last find a refuge—but by libel against libel—perhaps falsehood against falsehood—where the field, or the pot-house, may be the forum, and a *drunken mob the judge*!—a retaliation to be carried on by the process of the *periodical* and *free* press!—covering the pages of every daily, weekly, and monthly publication with the filth and the falsehoods which malice may devise, or corruption purchase!

JUDICATURE.

This remains, indeed, still pure, and yet your judges and your magistrates are, like your clergy,

the objects of broad and vulgar vituperation, when in the discharge of their magisterial duties they are obliged to afford to property, at least the *judicial* aid which, without a violation of their oaths, they could not refuse—the process and execution of existing laws ! This vituperation has not been by whispers, or in secret, but with that public audacity which the press, it would appear, in the present order of things, is licensed in exercising on subjects and persons hitherto held sacred ! The law-process—the writ of rebellion—by which alone the starving clergyman has recently been enabled to enforce payment of even a small modicum of what is his by law, has been for the last twelve months alternately a topic of invective and ribald wit. The libels on the Court of Exchequer, from which that process issues, have been innumerable and disgusting. No officer of the crown has been found to prosecute, or even complain of this insult to justice. The court certainly has been Protestant, but the law officers were O'Connell's. The court is now about to have a popish infusion of a fourth part by a successor to the lamented Sir William Smith, and shortly perhaps of a greater proportion. Is it to be hoped that *this* circumstance will arouse the sluggishness of the law officers, or mitigate the *indignant* feeling of the INJURED PEOPLE—the eight millions !

YOUR CHURCH—the PROTESTANT *Established Church*—in what state do we find *that* ?

I have already mentioned its hopeless condition. It has for some years struggled on against a general confederacy of the Catholic population for its destruction ; its ministers have been reduced to extreme and pitiable poverty ; their property withheld, or at least a miserable portion only of it paid, partly through compassion, and partly through legal process—enforced by the almost desperate efforts of famishing men to procure, at the peril of life, something to sustain it. Until within a few months the Irish government favored them with military and police force in aid of legal process to protect the legal claimants against inhuman butchery by the people ! Lately, the executive, under the direct influence of O'Connell and the popular press, withheld this aid from the *disfavored* right of the *almost proscribed* Protestant Clergy. The populace called for this, and it was cheerfully conceded by (as O'Connell calls him) the “admirable Mulgrave !” The persecution of the Protestant church has gone yet further, and we have recent instances* which

* See the public accounts of the arrest of the Rev. Mr. Nolan, a reformed priest, by a *magistrate*, expressly and avowedly for the purpose of preventing him from preaching in a Protestant church, according to a previous public notice to the parish. He was not discharged from custody until, having been arrested while from home, he consented to retire to his residence, and submit to the inevitable necessity of not fulfilling his promise to preach.

enable us to calculate its degree with fearful accuracy. In a word, the Protestant church of Ireland is publicly proclaimed to be, not a *grievance* only, but a **NUISANCE** ! and that justice to Ireland calls for, and *must have*, its abrogation !

This is not a mere wordy declaration ; it is *acted* upon ; the eight* millions are to be let loose on the empire, if its abolition be delayed ; and in every part of the island where fear prevents, for the moment, a *general* levy of open war to enforce it, particular sections of the millions actually wage a local warfare for the purpose.

The mob have taken their tone from the language, the undisguised avowals in parliament of the ministers themselves, who exist as ministers but by the support of O'Connell and the majority of 30 ! The

The only reason alleged by the magistrate for this outrage was, that the Protestant sermon would be offensive to the Popish mob, and might produce a breach of the peace ! Another instance, nearly contemporary with the last-mentioned.—Another sermon from the reformed priest was announced, and the same magistrate was called on by the Protestant parishioners to provide a civil force to protect him against a threatened attack on the church. The magistrate did not act on the requisition ; the church was attacked, the minister assailed, and it was only after much mischief had been done, that the civil force was tardily called to quell the tumult.

* See O'Connell's manifestoes, from the month of September, 1835—and his last letter to his constituents of Kilkenny—*passim*—in all of them he is equally distinct and insolent in his avowals that it is to the eight millions he looks for ultimate redress, and justice to Ireland !

populace echo the *wisdom* of the Commons in denouncing the *church*—and the *law* by which it is established—as crying *grievances*, nay—insults to the *majesty of the Irish people*, and the PEOPLE openly announce that *they will redress*—THEY are *eight millions*!

In looking at these events, one is led involuntarily to doubt their existence, and exclaim, can these things be! Can a British Protestant Government so forget, not one, but every principle that should guide civilized men in ruling a civilized state, as to permit long this state of society! Is the Protestant church of Ireland really to be overborne and subverted by a Popish population? Are its ministers to starve, or be fed by the benevolence of a charitable public! Is Popery to be the dominant religion of Ireland because a Popish population, in rags and steeped to the very eyes in poverty, bigotry, and ignorance, are the *numerical* majority!

If it must be so—if law is to be nerveless in protecting clerical right to property indisputably theirs, an equally awful question remains to be answered! Will law be more powerful to protect lay PROPERTY! The property of great Protestant land-owners and the Protestant landlords under them!—will the forfeited estates, in Protestant hands, remain unclaimed and undisturbed? Will *they* not be the *next instalment* of justice to Ireland!

But I have done with this detail! Why waste

time in urging proofs from minor instances, to show that our situation is dangerous, when peril, almost inevitable, hangs over the whole frame of our constitutional government—peril, from the enormous encroachments of the power of the populace over that of the upper ranks of society—the property, the civilization, the talent of the empire, from which legitimately *ought* to spring the governing power? Have not this populace already given a warning note of preparation that, under their hitherto successful leader, they are resolved to attack the constitution itself in its very citadel! Do they not demand, as of right, that the independent peerage, the second of the three estates of the British constitution—that power which is the moderator between the crown and the people's representatives—should, disrobed, divested of its *independent* character, instead of remaining a checking power over both, be reduced to an appendage to the Commons house, and, like them, become not representatives, but *delegates* of the people! This project has been actually broached—it has been avowed as essential to and part and parcel of REFORM—it has even been seriously entertained and discussed as a measure fit, nay necessary, to be carried; and the argument of the *eight millions* has been emphatically urged to compel its adoption!

Here, then, is a proposition not to redress this or that grievance, to remove this or that burden from the people, or to confer on them an additional pri-

vilege, whether likely to produce a benefit or an abuse; but here is a project tendered for adoption, or rather a *demand* peremptorily made, that the existing constitution—that constitution which through so many centuries has ripened into mature excellence—which,

————— for a thousand years,

Has borne the battle and the breeze!

shall be not changed in form merely, but absolutely and literally abolished. I say *abolished*; for the proof that an abolition it would be, is short and conclusive—for instance; the peers are required to be made a *representative* body. It is avowed that the change is sought in order that, by being *representative*, they should become *responsible*, and to be *responsible* is, according to *liberal* interpretation, to be *obedient*! The Lords and the Commons then become but two sections of one body, the whole of which, by becoming *representative* and *obedient*, become the delegates, the slaves of the populace—men to do *their* bidding, or answer for disobedience either with their fortunes or their lives! The penalty of disobedience must, in the supposed case, *necessarily* be with the people, *then* the masters both of the peers and the monarch! The nominal veto of the king on that or any question would be utterly worthless; for he too must be *obedient* or be cashiered at the will of the *people*, through their *representatives*, the Peers and the Commons, who, by hypothesis, are to obey the

orders! Reason the case as you will, the insane, the insolent project resolves itself into *this*; and nothing less than an absolute abrogation of the British constitution, and the substitution of one of the worst democracies the world has yet seen!

I have thus sketched shortly the state of your public institutions under the general heads of legislature, executive, law, judicature and church. They are involved in a chaos of ruin, confusion, imbecility, crime, and discord!

I would now ask the reader to consider and answer to his own impartial judgment and conscience, *this* question—to what is the deplorable state of public affairs attributable? Is it not, if you trace the evils upwards to their source, solely to the *neglect* of the great principle which I have above stated, namely, “the *populace* should be excluded from all power in or over civil government.” That the reader may be enabled more easily to decide, I put the question directly to him, on separate items, instead of the complex mass of public ills. I *assume* for the present the *facts* implied in those complaints—no fair man denies them:—

“Why is *property* among us no longer sacred, even to the legislature itself?

“Why is your *law* inoperative for the protection of person, property, character, even life itself?

“Why is your *judicature* libelled daily, scoffed at,

contemptuously treated by a ribald press, when your judges attempt conscientiously and efficiently to administer that law?

“ Why is your *church establishment* on the verge of extinction—its property spoliated, *until the spoliators themselves quarrel about the extent of the spoliation and the appropriation of it? ! ! !*

“ Why are its *ministers* begging their daily bread, with an indisputably *legal title* to property fully equal to their support, but which law is unable to enforce?

“ Why are your *public counsels* uncertain and unsteady, and your executive inefficient?

“ Why is your legislature involved in discord and broils of the most unseemly kind.

“ Why are your clergy arrested with impunity in their houses to prevent their preaching in their churches?

“ Why, when your clergy is even in the very pulpit preaching the gospel of peace, is he assailed by a ruffian mob, and magistrates decline to protect him?

“ Why cannot the clergyman collect his tithe? why, the landlord not enforce his rent, or recover the possession of his land?”

Is not the answer to all these enquiries *this?*
THE POPULACE HAVE BEEN PERMITTED TO ASSUME
POWER AND THEY ABUSE IT! They are become
paramount to the law!

But it may be asked why is this inordinate power of the POPULACE to be charged on the civil govern-

ment? May not the mischief have arisen from another source?

Addressing myself in answer, I would say to this civil government—

You are the authors of all the evils we deplore—for you abandoned your prime duty—you were constituted a government and the public submitted to you as such, on the condition, express or implied, that men's property—their personal safety—their life, their power of acquisition and of enjoying should be preserved against the force, wrong, and outrage, of the violent, the vicious, the strong and the turbulent—you have *neglected* this duty by not vigilantly and vigorously preventing the most numerous but the worst and dangerous portion of the community, from encroaching on the rights of the better but the least numerous, and the physically weak portion which can only exist as protected by the civil power of the community.

You made LAWS for the purpose of protection of property, and the rights which belong to it; but—

You have suffered the law to be disobeyed with impunity—you have suffered tumultuary meetings of the populace to be assembled for purposes dangerous to law and to the peace and well-being of society.

You have suffered public orators at those meetings to harangue *against* the law, and the populace whom they addressed, to *combine* against and *defeat* it.

At those meetings *you* have suffered the titles of *whole classes* of men to be questioned, disparaged, and slandered.

You have suffered seditious libels against the church and the state—the clergy and the legislature, to circulate openly and widely, with impunity through the empire, though the laws afforded a remedy, and *you* ought to have enforced it.

By *your* neglect of enforcing and vindicating the law, the law itself fell into contempt.

The clamor of the populace against the law became louder—*you* legislated upon their mandate, and the mandate of the mob became the law of the land.

At those meetings of the populace and through the public press, *you* have suffered sedition, the most palpable and dangerous to be disseminated with perfect and uninterrupted impunity—a contempt for the most venerable of your institutions—for the law, the church, and the legislature itself, became prevalent—the mob became, in their own estimation *every thing*—the civil government of the country and those whom it should have protected, *nothing*!

A *bad* man, perhaps I should say, the *worst*, because he is the most mischievous, at once sordidly avaricious and dangerously fond of power, and utterly destitute of principle, has by several years of *impunity in sedition*, if not *treason*, been permitted by *you* to acquire an unlimited influence over that

populace. He has exerted and continues to exert that influence to the worst purposes and by means the most unwarrantable ; yet, *you* suffered, and still suffer the LAW by which *he* might have been punished and restrained, to remain a dead letter !—When his influence for ill had become paramount the law—at least while in *your* indolent hands,—*you* suffered the populace whom he cajoled, to retain him openly as their *bribed agent*—their agent for continuing the impulse of agitation in which they delight ; their *parliamentary agent*, to intimidate or coerce parliament itself to add to this power of the populace, to assist in still more effectually prostrating the law, the church, and every civil institution which yet impedes them in this unholy work ; but more particularly to aid in demolishing the framework of the constitution itself ; to abolish the hereditary peerage—the second estate of the realm—to degrade the nobles, and raise the populace itself to the *very highest* place in the scale of power—one to which they insist that every other rank in the state, even the crown itself, must render implicit obedience ; and this, not by rendering the *salus populi* but the *voluntas plebis* the *suprema lex* !

Even at the present moment, you the *civil government* of the country, see him—apparently yourselves unmoved at the scene which is passing before your eyes—receiving from his millions whom he rules, MONEY in tens of thousands—much beyond that which any public officer of the state

receives for his services—while he labours for that pay in an open and avowed attempt to overthrow that constitution under which you, the ‘government of the country,’ continue, not merely to tolerate him in silence, but *you*, the government of the country, his majesty’s counsellors, servants, and ministers, *crave him* as your *associate*, nay, act under his advice and rejoice in his protection and support !

In several instances occurring in the course of our inquiry I have ventured to appeal to the judgment of my reader. In doing this, perhaps I have been rash ; for how many are there so tainted with party or factious feelings, that their judgment is become unsound, and its integrity sacrificed to their hopes or their wishes—men who from viewing through a distorting medium will deny the plainest truth, and believe the most palpable improbabilities ! Nevertheless, I will once again trust to my reader’s judgment as sound and impartial, and ask him whether though he may hesitate to assent to the general proposition that *all* the evils we labor under have arisen solely from the irregular influence of the popular will in the government of the country, he may not yet concur in thinking that the power of the populace in or over civil government, is, generally speaking, a *disturbing* influence—that it impedes] or gives a misdirection to the course of legitimate civil government—in other words, that our PRINCIPLE is true and safe to a common in-

tent, and sufficient as a general guide for the statesman, though it may not universally and without any exception, be true. In fact, can it be denied? Is it not impossible to point out any instances in which a controlling and active intervention of the populace alone, in the conduct of civil organized government, has not been productive of evil proportioned, perhaps, to the degree of that intervention; and if so, the fact ascertains the truth of the principle.

Indeed it is impossible, in the nature of things, it could be otherwise.

A populace is not a reasoning entity; it can neither reflect, nor foresee; it acts and can only act from external impulse, or from mere instincts adverse to peace, to the rights of property, and social order!—in other words, to the great ends for which human society is instituted. It is indeed, true, that *populace* constitutes the great majority of mankind in all countries of the world; it therefore follows, that *their* well-being as men, and their interests in the proceedings of civil society, whatever may be their error or their faults, must be objects of great and continued interest and solicitude to government in every part of the civilized world. But this care of their interests must be taken by others, *not by themselves*; for of themselves they always have been, and will always be, incapable of the caution, foresight, recollection, or knowledge necessary for self-protection, and

the due regard to the interests which most nearly concern them. They must act by the wisdom of the minority—of the few—who, when removed from the *panic* or the *impulses* which guide a mob—become capable of comparing, judging, foreseeing, and recollecting all that history or experience suggests for the guidance of human conduct.

It must follow, therefore, that as well when the populace act from themselves, as when they are but the instruments of others—the principle—that the populace ought not to be trusted with power in a state, applies; for, in the first case, they are incapable of rational conduct, and, in the second, they are but instruments in the hands of those who may, and in the great majority of instances do, actually use them for their own purposes, inconsistent with the welfare of the public.

Are instances required to exemplify this? Look again at Ireland within the last half century. I pass over the revolution of 1782, when Ireland shook off the direct legislative power of England; for *that* event was brought about, not by the populace, but by the united force of the upper ranks, aided by the lower. Each portion of society in that instance performed its proper part—the higher orders suggested, the lower adopted the claim, and gave it their cheerful and undivided support. But see, in our own time, the next measure—the rebellion of 1798. In that, the populace was not indeed the *first mover*. A populace *may* rise in

INSURRECTION—they *cannot* conduct a systematic *rebellion*. The populace in that transaction were but the instruments of a few revolutionary spirits who, formed into a club—that of the united Irishmen—first excited and then organized the populace into a rebel force. But the *populace*, the physical force, was, nevertheless, the *rebellious power*. Without the willing concurrence of the physical power of the mob, there could not have been a rebellion, and therefore, in that instance, the physical power of the *populace*, acting against and upon the civil power, at the instance of a few traitors, was the source and substance of the evil. The government of the day used the power of the state to put down the physical force of the populace; and, after having done so for the just end of sustaining the civil government, with, no doubt, frequent instances of an indiscreet and cruel use of their force, the civil power was sustained and the rebellion crushed.

What shall we say of the next instance in which the power of the populace in or over government signalized its mischief?—the instance in which a Constitutional Principle was sacrificed to *that* power—Catholic emancipation! Shall we hesitate to call this another of the *evils* which have followed the exercise of popular power?—In the abstract, the measure appeared founded on a principle of equal justice, and, even in its ultimate effect, would most probably have been innoxious were it not for the

ill faith, the actual breach of a solemn oath, which is charged on those who availed themselves of the newly obtained power, and out of possible good, brought forth such actual evils! On the whole, most certainly it cannot *now* be doubted, that the admission of Catholics to civil power must, in British history, ever be reckoned among those events which have been most prolific of mischief! It was, indisputably, an event resulting from the exercise of the power of populace over the civil government of the country. How *was* it produced? The whole from its origin was the result of the labours of a Catholic Board, a Catholic Committee, and finally the Roman Catholic Association. These were originally clubs of private or professional individuals, wrought upon and induced by O'C. to unite and practise upon the Catholic portion of the people—in the *first* instance, to promote their own popularity, which led directly in the *second* to profitable professional practice. With indomitable pertinacity O'C., in this pursuit, slowly but surely proceeded in his, *perhaps* premeditated, career, until, by persevering and audacious exaggerations of alleged suffering of the Catholics, by the professors of their creed being excluded from the legislature, and by gross and frequently seditious misrepresentations of the conduct, designs, and principles of successive governments, and of the maligned Protestant part of the community, he was enabled, through an impunity almost miraculous, to embody, as it were one man, the Catholic population

against the power of the state ; and, until by the fear of *public convulsion* the ministers of the crown thought themselves justified in granting to expediency what on principle they had repeatedly refused. Thus O'Connell and sixty men, *his creatures*, ultimately, *by the power of the populace*, forced their way into the counsels of the nation. Thus the threatened power of the populace produced the power of O'Connell himself—that power which is now re-acting on and exciting the populace with an energy proportioned to *his* hatred of the name of England and Protestantism—disturbing and all but subverting at once the Protestant constitution and the Protestant church ! Even now, however, in the zenith of popular power, he reigns but in their right; it is on the power of the populace he rests even at the present moment, though, with his parliamentary pledged force, he is now paramount to the ministers of the crown. Yes ! it is the physical force, the 7,000,000 which he invokes ! On *them* he calls to enforce a reform of the Lords, and to prescribe as the measure of that reform, that they should be stripped of their hereditary, independent, legislative rank, and made thenceforward *responsible* as a part of the representation of those millions, -and, with it, to pay obedience to the dictates of—whom?—that very O'C. himself, (so long as the laws of nature and of *justice* shall permit him to receive the homage,) who now himself lords it over, and sways, with unchecked control, that very populace—those very millions !

SECTION V.

OBJECTIONS.

Having now, to the best of my power, established the principle which I conceive to be fundamental in civil government, it only remains that I should answer some popular objections which, no doubt, will be urged against it.

And first, it may be objected to this principle, that it is one involving a usurpation by the upper orders of society of the rights of the lower ; for that the lower have rights as unquestionable as those of the rich, and that the lower orders should therefore have an adequate share of the power of the state for their protection ; whereas, on our principle, the whole power of the state is vested in the rich against the poor.

This objection is quite unfounded, and arises from an obvious confusion of ideas in the mind of those who make it.

It is most cheerfully admitted that the lower, nay, the *very lowest*, order of society, have *rights*, which ought to be as sedulously cared for, and as zealously protected as those of the upper classes.

But what are the rights of the poor in civil government? They resolve themselves into these—namely,

They have a right to be protected by the power of society in the liberty of their persons against illegal force and violence—to have protection for the property obtained by their industry against the spoliation or fraud of any class, high or low: they have a further right to the care of the governing power to promote the general welfare of the lower orders in every way which prudent circumspection, operating with respect to the general interests of the whole society, can suggest; and finally, they have a right—one founded in an instinctive motive of compassion, as well as of justice—to be provided with means of living, when, without their own default, or vice, or crimes, they shall want the necessaries of life—and this latter right is one which is founded, as well in a regard to the interests of the upper as of the lower ranks; for to leave the class of men I have described in want of means to sustain life, is to endanger the peace of society, in which the rich are still more deeply interested than the poor.* But by

* It is in this sense, perhaps, that the observation of Paley, (in his 2d chap. How the subjection to civil government is maintained) is peculiarly entitled to regard, when he says—

“Let civil government hence learn to respect their subjects, and be admonished that the *physical strength resides in the governed*. That this strength wants only to be felt and roused, to lay prostrate the most ancient and confirmed dominion, &c.” The fact is undoubted, but it assuredly ought to influence government no farther than to induce them sedulously and un-

the way in which this objection is generally urged, it is implied obviously, that because the poor have *rights*, therefore they should have the *power* of the state vested in them equally with the upper order of society. The *power* of the state, we have seen, must, from the nature of man, and to secure the very existence of civil society, have for its object, to protect those who have property against the spoliation of those who have none—the weak against the strong—the few against the many. But how can it consist with that principle, that the *spoliators*, i. e. that class from which *spoliation* may be expected, the *poor* and the physical force, should have vested in *them* that force of the state, to control, weaken, or resist that power which, *ex hypothesi*, must be perpetually operating *against* mere physical *power*, and possible, nay, probable wrong?

remittingly to look to the poor, and that those in whom the physical force resides, shall have full right and justice. To let the principle operate beyond this, would be to substitute a timid and vacillating government for a strong and efficient one. It would beto make them substitute the *fear* of physical force for *justice* and sound policy with respect to the whole of the community! It is extremely probable that the reason, or one of the principal causes, of the tendency on the part of the lower orders in Ireland to tumult and outrage, insubordination, conspiracy, and rebellion, *against* the power of the state and the law, is, that government in that country has never been sufficiently attentive to the just interests of the lower classes. In England there has been by law, early, a provision for the poor; and there the lower orders have, generally speaking, always been amenable to the established authorities

But it may be again objected that the **POPULACE**, as well as the upper orders, have a share of the burden of *expense* of the government cast upon them, both in direct, as well as indirect taxation, and therefore they should have a share of the *power*, as well as the burden of government; and again, that their *rights* are a subject of legislative care, as well as those of their fellow-subjects, and they should therefore have a share in the choice of the representative body, and a power of *expressing their sense of its proceedings—aye, and of advising too.*

To this, the answer is already substantially given. Their rights must be guarded by others—not themselves. Of themselves, they are incapable of governing, or of advising a government. Their interests, too, are inseparably mixed up with those of the higher classes—indeed are identical with them—and no government can be either good or wise which does not specially watch over the interests and rights of the great mass of the population. I admit they bear a part of the burden of the expense of government, and when the station of life of individuals is such as to make his proportion of the burden of expense considerable to a certain

In Ireland there never has been one—the poor of Ireland have been left, unprotected by any legal provision, to famine and nakedness—and the lower orders of the Irish people have, (may we not say, *accordingly*.) been habitually adverse to, and *good haters* of established law and institution.

extent, that person should no longer be considered as part of the populace—he should rank higher—and have a proportional share of the *power* of electing the representative body to which the general interests of society are submitted. Accordingly, the elective franchise qualification is regulated by property looked at and measured in a certain way. But what share of the burden of expense do those who are below the rank of qualified electors actually bear? Certainly something so minute in the case of each individual as to be insignificant. The Irish POPULACE, under the guidance of their political friends, are certainly more loud and frequent in the advice they offer on public concerns than any other description of men in the empire—but I would gladly learn what is the annual amount of contribution to the state paid directly or indirectly by the six millions of paupers who comprise the great body of the Irish labourers and beggars, and who with difficulty obtain the lowest description of food, and the most filthy of rags (not raiment) to sustain their wretched existence !* They certainly are

* O'Connell, within a very few days, has admitted that there are in Ireland 2,500,000 literal beggars, living by *alms* ! and out of the residue of the 7,000,000, say 4,500,000, deduct for women and children, only three-fourths. The residue would be 1,125,000 ! male adults. Of these, say three-fourths are peasants labouring for 6*d.* or 8*d.* per day. The reader may calculate from thence what *they* contribute to the expense of the state. A large proportion of the rest are tradesmen and petty shop-keepers, not much more wealthy than the labourers.

at present made, by terror and extortion, spiritual and lay, to contribute £20,000 per annum for the services of O'Connell—but this is done by a *collector* and a mode of *collection* that we most devoutly hope will never be hereafter tolerated, and that the present proof of its enormous evils on the poor as well as the higher classes of society will shortly make its existence a subject only for the indignant historian!

But I may again be asked of what practical use is this PRINCIPLE “that the POPULACE should not be admitted to have power in affairs of government, when, from the very nature of our constitution, and more especially from the spirit of the Reform Act, the power of the people and their rights to give their opinions on the conduct of government, is recognized and indisputable. Do I wish to alter the constitution or repeal the Reform Act?”

My answer is, I seek to do neither. In my humble judgment the Reform Act in its principle was good, so far as it annulled the power of individuals to send to the council of the nation, men *not elected* for that purpose by qualified electors, but men *nominated* merely, and that, too, sometimes, for money—almost always for the private and corrupt interests of the nominating individuals. It so far brought the House of Commons within the true spirit of the constitution, and made it really a representation of the people, as

distinguished from an *oligarchy* on one hand, and the *population* on the other. I am, therefore, for abiding by what has been done, and am adverse to change. *Stare decisis* is a maxim of true political wisdom—unless there be radical error in the decision or certain and substantial evil flowing from it as a result.

With respect to the alleged *constitutional* right of the people to give their opinions on the conduct of the legislative body, and to advise on public affairs, I assent also to that; and heaven forbid the time should ever arrive when the delivery of *opinions*, not in themselves *sedition* or *treasonable*,—or offering *advice* to a *legislative body* of the British empire, in the respectful tone which befits opinion and advice should ever be restricted or censured. The right of petitioning is sacred to the people by law, reason, and the constitution. Declaration of opinion, and the giving of advice are also as constitutional as they are useful; but advice and opinion must be distinguished from insolent and menacing dictation. The *power*, therefore, of which I have spoken when stating or arguing on the principle we have been discussing is, *that* by which the very dregs of the *POPULACE* have been excited in mob-meetings, in trades' unions, in *illegal* associations, framed obviously and exclusively for the purpose of intimidating or corrupting the qualified class of electors, or maintaining malefactors in the perpetration of their crimes!—stimulated, too, through

the abused press, to seditious language and treasonable act against the civil power of the state—the legislative—the executive—the magistracy—and the church! I would neither annul nor abridge any right or power which the constitution acknowledges, or which would on due consideration be thought consistent with the safety of the public and the rights of individuals. The *principle* which we have sought for, and I hope found, needs no new order of things—no abrogation—no new reconstruction of established institutions—it will be fully satisfied by enforcing already existing laws, and preserving and guarding existing rights. It is *a principle* which we have been in quest of—not particular modifications of laws, or alterations in establishments—a principle by which law should be enforced, and the general tone and bearing both of the legislative and executive powers of the state should be made to operate so as *habitually* to restrain the POPULACE from assuming directly, or by indirect means, a power or influence over the civil government of the country—one which the constitution does not give them, and which we have seen is always adverse to, or inconsistent with, the great ends of civil government. What we want is the

‘*Spiritus [qui] intus agit—totamque agitat molem!*’

Such a spirit would restrain *intimidation* at

elections—it would punish with the utmost rigor the assemblage of mob-meetings—no matter how convened, or who may preside—of which the object substantially was, to inculcate *disobedience of the law*, by seditious attempts to influence and excite the multitude.

If law were not at present strong enough to punish sedition or treason, *this* spirit, as the true friend to peace and good government, would advise to strengthen the power of law on that head; but would first ascertain that the *law* is weak—certainly it has not been tried fairly by *any* administration—The power and force of law is suspended by the inability or the timidity of those who ought to be willing and able to wield it—this spirit would bring it forth and use all fair and constitutional means to give it efficacy.

It would advise, for the magistracy of every description, the selection of men having property, knowledge, integrity, and courage fit to qualify them for the discharge of magisterial duties—not, as in Ireland too often occurs*—appoint to the magisterial office the favorites of the mob—men whose only qualification is, that they are not yet *disqualified* by law for the office.

* Mr. O'Connell, in a late speech at the *Trades' Union*, seriously complains of Lord Plunket (whom he has proscribed!) because he refuses to give to *the* 7,000,000 the kind of magistrates *they wish*.

It would, to the utmost extent of the legal and physical power entrusted to the executive government, enforce all existing *laws on which property depended*, or which respected *the rights* of any order of men, against all clamour and physical force or the threat of it, by any mob, no matter by whom headed or advised.

It would punish in all legal modes *sedition* in writing or speaking.

It would *not* let the law of *treason* remain a dead letter if, in the opinion of fair and honest legal officers of the state, treason had been committed—one or two convictions of *real traitors*—men whose aim and intent (evinced by overt act) was to subvert the constitution of the government, the power of the KING, LORDS and Commons, and to substitute another form of government in their place, with new or different powers—one or two convictions, I say, and the execution of such traitor or traitors, under the existing law, would do more to restore tranquillity and civil order to the state than any number of concessions to the POPULACE—any surrender of our constitution to the dictation of those disturbers of public tranquillity, whose object under whatever specious pretences, is TREASON, and TREASON only, under the mask of reformation and improvement !

It would enforce existing law against all political associations, who admitted, indiscriminately, all

classes, and whose professed object was to bring about changes of any kind whatsoever, in the law or constitution—for these open a road to the power of the POPULACE.

It would *revise* the magistracy on a principle which would exclude from it all who have not property in land to a specified amount ; and whose conduct had been marked by any instances of connexion with political clubs.

It would advise a revision of the laws for regulating the press ; for the purpose of making the editors of public prints strictly and more easily responsible for libellous publications.

Such a spirit and such a principle would quickly give a new aspect to society—animating, invigorating, and safely guiding the whole system of our civil government !

It may be again objected that the *principle* we have deduced if acted upon in Ireland, would exclude seven millions of people from all power or influence in the civil government of the state ; and that the population, *i. e.* those seven millions, being Roman Catholics, the operation of the principle would be virtually, the exclusion of the Roman Catholics of Ireland from their share of influence in the government of the state.

The answer is this :—

If the 7,000,000 of Catholics, are also *populace*—men without that share of property, or intelli-

gence, or education, &c. which would entitle them to rank above the populace, they must abide the consequence and be excluded from power. That an overpowering majority of them are of that description, taking in the two millions and a half of admitted *mendicants*, cannot be doubted.

As to that part of the objection which rests on the Roman Catholics of Ireland being discontented if *their* population should be obliged to submit to the same rule of government as the other religious denominations of the public of the empire, *i. e.* *their* populace being excluded from power—the answer is, that Roman Catholics, as such, have no right to the immunity which this objection implies. *Their* population is, *at the least quite as dangerous* as any other population—and the *claim* of such immunity would be itself a proof of danger in giving extraordinary power to persons of that creed.—It is a claim founded entirely on their numerical, *i. e.* their physical strength, and should *therefore* be discountenanced and resisted.

It has been already admitted, that the claim of the Roman Catholics to *equal* rights with their fellow subjects, was in the *abstract* quite just, and the concession of it by the emancipation act, on the general abstract principle, was also right—but it could be so only on the principle that as Roman Catholics and subjects, they would take those equal rights on the same terms as their fellow subjects,

and that they should give safe *security* to the public, for the fair exercise and use of them. Almost every month, however, since the claim of *equal* rights was conceded, they appear, through their leaders and organs to look for, nay, to *insist upon*, something very different from *equality*!—and with respect to the *security*, which *was* accepted by the legislature against the *abuse* of those equal rights, the history of Roman Catholic votes in the House of Commons since they were admitted, not only affords satisfactory evidence that the *security* was insufficient, but that *all security by oaths*, from Roman Catholics—even *not* of the *populace*,—on subjects connected with the *religious* or the *political* interests of their church, may be liable to *all* the objections which upon recent investigations of their creed, have been urged against it.

Another objection—the last which I shall notice—is much more plausible, and though it has been touched upon before, it may not be unnecessary to offer here a parting word. It is this :—

That the principle of excluding the *populace*, *i. e.* the great body of every nation—from power, is to place the great majority of mankind in the power of the much smaller number of every community.

There are many and most conclusive answers to *this* objection.

1st. That if by vesting the power of government in the smaller number, is meant placing the majority in the power of the few—this must inevitably be always the case, where *government of any kind* exists—for *ex necessitate rei*—both legislative and executive power must be administered by the few. In the most purely democratic constitutions it must be so, and therefore the question is one of degree only, of more or less.

It is true, that in some states, the power of *electing* those who shall have the legislative or executive power, is more widely extended—perhaps so much as to let in a very great part of those who are in other states excluded and reckoned as populace. But perhaps there is not to be found in any old country which has had the benefit of long experience, a constitution in which the right of electing those who are to wield the governing power, is not vested in a minority, small indeed, in respect of the whole population. It must, therefore, always happen, that what is called the grievance—namely, that the *few* should govern the *many*, must necessarily occur. Then arises another important subject of enquiry, namely, whether when the elective power is very widely extended beyond a certain limit it is not productive of much more evil and danger to the society to be governed than where the limit is more narrow—but with this we have at present nothing to do.

2d. Another answer to the objection is:—from the nature of all government in civil society, the few must have the *power* of government vested in them, for, the end of government is to restrain those who are the class most likely to endanger the peace, the property, the liberty, of the rest. Now *that class* is the *populace*, the many—the poor—the violent—the turbulent, &c. that is, the *populace*, the physical force—a class always, and necessarily in all considerable states, greatly the majority of the whole, and it would be absurd and an inconsistency to say, that the *class to be governed*, &c. must have vested in *them* the *POWER* necessary to *govern* i. e. to *control themselves*.

3d. A third answer is, that when we speak of a government, or men vested with the power of governing, we *must* suppose that the government is administered according to some certain form—some established laws, by which their power is limited, and by which they are restrained from doing evil or injury to or against any class of the community. The power in government, therefore, to do injury or to oppress any class of the governed, is always, in civilized states, precluded by their constitution. No doubt, in many instances, the *POWER* of government is abused, and so almost universally the power of the populace also is ; but in the case of abuse by the higher order, it is guarded against by law, and the class injured by the abuse, have, in the

case assumed, the remedy against the abuse, in the *law* of the country, or the *constitution* of it. Besides, there is, as Paley, we have seen, observes, the great *physical force* of every country which, on proper occasions, the rulers may well expect will be raised against abuses, when they become general and flagrant. In addition—it is absurd and monstrous to suppose that the legislative and executive power of any state can possibly have an interest generally to oppress or injure the great mass of the inhabitants of their country—the populace—the non-franchised class. Individuals in the government of any country may intrigue for higher station ; may peculate ; from motives of avarice, or from ambition, endeavour to supplant those above them ; but instead of a general combination, by the governing power, unnecessarily, and by a conspiracy to injure or oppress the mass of the populace, the danger is quite the other way—they seek, as the demagogues do, to cajole, to flatter, to court the populace. The populace are “young ambition’s ladder ;” and, perhaps, either for pelf or place, for money or for station, O’C. himself is the most signal proof that it is the *populace* who are courted. How has his station, his “bad eminence,” his tens and twenty thousands per annum been obtained ?—by courting, cajoling, misleading, deceiving the most miserable population of the most miserable country in the world ! Oh ! to what depths has he sunk, to what

lengths has he gone in his successful attempts on the populace! What a precedent has he set—what an example has he given in *all* that is base and mischievous in cultivating the *populace*!

I have now endeavoured to answer to the best of my power, the objections which appeared to me most likely to be raised against THE PRINCIPLE, to trace and establish which, has been the main purpose of this ENQUIRY. In the progress of the argument it has become most manifest that the civil government of the empire is nearly in a state of thorough disorganization—that the dangers which impend are of the most formidable kind—and that we are involved in a contest in which the unresisted, nay, fostered and cherished, power of the *populace*, threatens the dissolution of the power of government itself—and the frightful substitution of revolutionary anarchy, unless those who are for LAWFUL RULE—for PEACE, PROPERTY, and the protection of CONSTITUTIONAL CIVIL POWER, quickly exert that efficient force which they undoubtedly possess, to assert those inestimable blessings. Surely, great as the difficulties are by which we are surrounded, there is no just reason to despond—a fair review of conditions will satisfy us of this truth.

Let us for a few moments consider what is our *true* existing situation—what are the just grounds

of apprehension—what have we with us—with what have we to contend.

The contest is one in which we are *for* THE CONSTITUTION—for a legislature of King, Lords and Commons—and *Protestantism* the religion of the nation—and *against* a total change in that legislature—and the abolition of the Protestant church. We are opposed virtually, but to the domination and influence of the Popish population and priesthood of Ireland, with O'Connell their head and sole organ—but, to that population, that priesthood, and their leader, his Majesty's present ministers have surrendered themselves—and as far as in them lay, it would seem, betrayed the whole power of the state—to *them*, therefore, also, we must be opposed.

In this contest what have we *with* us ?

First—We have the KING!—a constitutional monarch, ever faithful to his high trust, and who, in every act of his reign, has observed the spirit as well as the letter of the constitution. In his reign have arisen much of the danger in which we are involved—and very many are the errors in government which have been committed. But the errors have not been *his*. The king of England cannot *alone* legislate. He has but concurred as one of the three estates in whom the legislative power is vested ; and where the Representative Body and the Peers of England submit for his assent a legislative

measure, he is not a “prudent” sovereign who would hazard the consequences of a refusal. *His* constitutional power rests in the selection and removal of his ministers. To that he has once already resorted, and well we must remember his last indignant dismissal of those very ministers who now constitute his cabinet. But they have been again forced upon him. The Irish delegates and the Popish populace were for the moment too strong for the royal will; nor had the British people at that time become aware of, or awake to the dangers which impended. Hence our present difficulties. But the loud and insolent audacity of our enemies has at length roused the sleeping spirit of the nation. The sovereign will no longer be entrammelled. HE will be with us; and the ‘king’s name is ever a tower of strength!’

We have also with us, the second estate of the realm, the PEERS—MEN who have proved their genuine nobility by much higher proof than their patents! They gallantly and wisely placed themselves in the breach which treachery and perjury had opened in the citadel of the constitution—they have repelled the enemy, and, for the present at least, SAVED THE STATE! Their noble defence has effected more than our *present* salvation. They have demonstrated by an illustrious example, which will be remembered in all future times, the true use and inestimable value of a SECOND estate in our

legislative body. They have not only *checked* but routed the enemies of the British constitution—of peace, liberty, and civil order.

In the third estate, also, the Commons—how do we stand? Not destitute certainly. We have, indeed, by the faithless treachery of the Irish infusion in that body, been left in a minority—but it is one boasting justly of comprising within itself all the political wisdom—the experience—the practical and useful eloquence which fit a public assembly for debate and decision. This minority require to be encreased only by a transfer of twenty from the incongruous mass opposed to them, and they become a majority, in unison with our monarch and the PEERS, who have so triumphantly defended our altars and our hearths against invading popery and the despotism of a maddened POPULACE!

But again, what have we? We have now with us the avowed and loudly announced opinion of the intelligence—the wealth—the public virtue of the British public. It resounds from every quarter of the country—nay, it is admitted by the mob-leader of Ireland himself—the great innovator upon the privileges and blessings of civil society—it is confessed even by him, in the humbled tone of disappointed hope, that from the *people*—yes, even from the *populace* of England, Irish faction and treachery have nothing to hope.*

* See his speeches during this month of November, to the *Trades' Unions*, in which we have also *this* gratifying admission—

Under such circumstances, what may we not hope! Can it be feared that the sovereign who has been betrayed and abused by his present ministers, will hesitate in due time to dismiss them with the ignominy which they have so well earned!—that he will not again recur to the sense of his people, at last roused to a just feeling of public danger, and give an opportunity to them, and the empire, to rid themselves of the incubus which presses on them! Impossible!

Let us now see what are the items on the other side of this national account.

Against us: we have the small majority constituted by Irish delegates—now assuming their proper place in the estimation of the public—its contempt!

We have also against us the continued and eternal hatred of the Popish priesthood, and their instrument for evil, O'Connell, whose detestation of England, its people and its religion, will, undoubtedly, never, never cease to fester in his bosom!

We have, for the present, also against us, the Irish POPULACE, which he rules while he fleeces.

Let us now estimate what may, under existing

that the rich and respectable part of the middle order of the Irish people, even in the metropolis, cannot be wrought up to afford any aid to his projects. He complains that the *rich*, &c. will not *register* to qualify—and then, as usual, he hurls threats and vengeance, to intimidate!—See that harangue in the newspapers arrived from Ireland on the 15, 16, and 17th instant.

circumstances, be the value of these opposing powers.

In order to make such an estimate, we must suppose the opposing powers to be brought into actual operation, which cannot be but by a removal of the ministers, or by an appeal to the constituency by one or the other of the conflicting parties. If either event happen—and it is inevitable that *one* must—the men whom the country have already tried, and confide in, will again be candidates for its confidence. In such a case, it surely is not unreasonable to hope that, deeply convinced the time for temporizing by half measures—by ambiguous verbiage seeking to hide a latent purpose which they are afraid to avow—is for ever gone by, they will adopt an explicit, bold, and thoroughly effective policy which can alone save the empire !

They will, therefore, make a full and unequivocal announcement to the British public, to whom they will be about to appeal, that they are for the *constitution as it is*—for the structure of the legislature as it is—for the religion of the country as it is ‘by law established’—but, conceding to public opinion all that can be expected from honest and conscientious men in promoting the *utmost* degree of freedom in religious opinions, consistent with the existence of a church establishment wisely reformed—that they are resolved, at whatever risque, to enforce and establish the absolute authority of the LAWS, whether those laws relate to

the rights and possession of property, clerical or lay—or to the preservation of public peace, and the assertion of the civil authorities in all its departments against *sedition* and *treason*; and that in order to effect this purpose, they will advise all such measures, whether legislative or executive, that may be necessary to place the authority of the civil government of the empire beyond the possibility of resistance by force, or evasion by fraud.

With such an announcement of their principles, the Conservative force of the empire will come forth and crowd to their support, in a degree which will render the reign of law and justice secure against the machinations even of Irish priestcraft, or the treachery of Irish delegates.

The majority in a new House of Commons, assembled under such auspices, will be, triumphantly, with the friends of our constitutional establishments:—if so, let us next consider whether there will remain any formidable danger from the Irish population, its priesthood or its organ.

No doubt, we admit, the Catholics of Ireland are *seven millions*. Deduct from this number its admitted beggary—the two and a half millions. Deduct also the agricultural labouring classes, not beggars, but scarcely distinguishable from them by any visible line. Deduct also the women and children, who constitute so very large a proportion of the Irish population in the mass—and how will the bugbear shrink

into something not very terrible to encounter, though it may be very unpleasant to contemplate !

If open insurrection should be attempted, either under the old pretext of *repeal*, or the new one of *justice to Ireland*, how quickly would the British force, in the hands of such ministers, restore an humbled tranquillity to that unhappy island ! How soon would the agriculturists, who live now by the export of their corn to the markets of England—their cattle—their butter—their very eggs—how soon would they be driven, by famine and nakedness, to turn upon their betrayers—the agitators—repealers—the ‘justice for Ireland men’—nay, on their clergy, by whom, they would soon learn, they had been seduced into their crimes !

But we have better things to hope ! The Irish people are shrewd when their immediate interests are concerned, though their moral vision does not carry very far into futurity. Under the rule of a *strong*, *wise*, and *just* government, such as we are supposing, not even the malice of the priesthood nor the eloquence, nor the schemeful avarice of O’Connell, would suffice to entrap them, in any considerable numbers, to the mad project of resistance to the force—or a relinquishment of the markets of England. The tide of opinion—if the *populace* ever act on so cool a ground as mere opinion—would quickly turn, and, vengeance on their betrayers would be substituted for the present yell

of triumph on the murder of a process-server, or the tithe proctors of the clergy!

But all this would depend, I must again say, on the government, whoever they might be, using the whole power of the state, to break up the present machinery of sedition and treason, and doing in fact and in truth, what is now the watchword of the faction, 'Justice to Ireland!' Yes, let *justice be done* to Ireland, and all will be well. Teach her to obey the law—to respect the civil authorities of the state—to abandon treachery, treason, lawless tumult, public and private murder—to learn the arts of peace—to acquaint herself with the comforts and the blessings of civilized honest industry! This would be part of the "JUSTICE" which England owes to Ireland. Another 'instalment' of it would be, punishment inflexible—upon the guilty—on those who have set at nought and violated every injunction of the law of the land, and every precept of the gospel of peace! In order to do this, give to Ireland *law officers* who shall not accept their offices as sinecures—as modes of accumulating wealth, or as steps to higher offices! Instead of 'agitate,' 'agitate,' 'agitate,' which one Viceroy has been said to have recommended to Ireland, let the advice to her law officers be, 'prosecute,' 'prosecute,' 'prosecute,' until punishment shall diminish, if it cannot in Ireland extinguish the crimes of tumultuary, seditious, and treasonable practices!

When these things shall have been done, cherish, aid, instruct the miserable peasantry of that fine island. They are men like other men. They are not incorrigible. They are and they will ever be what education, early treatment, habits and example make them. Take them from the hands of priests and agitators—place them in those of a beneficent, wise, and just government, and they will become what the just and the wise wish them to be !

But I now conclude this attempt to trace and develop the PRINCIPLE in civil government, by which good government may be rendered stable and permanent ! Whether I have succeeded or not, those who shall have taken the trouble and given the time to accompany me in the search must judge. I am not, I confess, very anxious whether they shall applaud or disapprove the *manner* in which I have attempted it. I rest satisfied with the consciousness that in doing what I have done, to place in a clearer light and bring more obviously into public view, this fundamental principle, my sole object has been to discharge a duty which every man owes to society—to add to the strength, and promote the stability of good, free, and lawful governance.

APPENDIX.

A.

SECTION I.—PAGE 30.

OF the various opinions respecting the *origin of civil government*, perhaps none are to be found more strongly claiming a rational assent than those which we have from *Paley*, in his origin of civil society. I transcribe them here, as they afford some assistance in forming a judgment on the theories respecting the “*state and law of nature*.”

“Government, at first, was either patriarchal or military, *that of a parent over his family, or of a commander over his fellow warriors.*

“I. *Paternal authority*, and the order of domestic life supplied the foundation of *civil government*. Did mankind spring out of the earth mature and independent, it would be found, perhaps, impossible to introduce subjection and subordination among them; but the condition of human infancy prepares men for society, by combining individuals into small communities, and by placing them from the beginning under direction and control. A family contains the rudiments of an empire. The authority of one over many, and the disposition to govern and to be governed, are in this way incidental to the very nature, and coeval, no doubt, with the existence of the human species.

“Moreover, the constitution of families not only assists in the formation of, and government by, the disposition which it generates, but also furnishes the first steps of the process by which empires have been actually reared. A parent would retain a considerable portion of his authority after his children were grown up, and had formed families of their own. The obedience of

which they remember not the beginning, would be considered as natural, and would scarcely, during the parent's life, be entirely or abruptly withdrawn. Here, then, we see the second stage of the progress of dominion. The first was that of the parent over his child—this, that of the master preceding over his adult descendants.

“ The actual state of society in most countries, and the modern condition of some uncivilized parts of the world, exhibit that appearance which this account of the origin of civil government would lead us to expect. The earliest histories of Palestine, Greece, Italy, Gaul, and Britain, inform us, that these countries were occupied by many small independent nations, not much, perhaps, unlike those which are at present found amongst the savage inhabitants of North America, and upon the coasts of Africa. These nations I consider as amplifications of so many single families, or as derived from the junction of two or three families, whom society in war, or the approach of some common danger had united.

“ Lastly, our theory affords a presumption that the earliest governments were monarchies, because the government of families and of armies, from which, according to our account, civil government derived its institution, and probably its form, is universally monarchical.”

B.

SECTION II.—PAGE 58.

THE fact alluded to in the text, is, indeed, very remarkable, namely, that at the revolution of 1688, when it was understood, and, indeed, boasted that the liberties and rights of the *whole British nation* were asserted by that revolution and the bill of rights, yet, the people, the great body of the population, were neither expressly made parties to that arrangement, nor in any way, whatever, consulted upon it. The *ranks* from which, and from which alone legislation and civil power ought to spring, the *peers*, and that *class from which* the legislative representation of the nation were *accustomed to be taken*, were those who *assumed*—without *consulting* the physical force, either by the name of *people*, *mob*, or *populace*—the *power* of changing the succession of the crown, and ascertaining the limits and extent of popular and legal rights. The manner in which this memorable change in the government of a nation, (memorable, because it was peaceful, and founded on just and rational principles of

government,) was, perhaps, in some of its circumstances of form, not free from objection; nor is it a matter of surprise it should be so, when the sudden and extraordinary exigencies which called for the measure are taken into consideration. It is, however, well worth the trouble to examine a little particularly the accounts which history gives us of the *manner* in which this great measure was conducted. It is the admission publicly made, and uniformly acquiesced in by Blackstone himself, that the revolution was the act of the *nation alone*, (by which it must be presumed he meant, that it was the act of the *nation* and of *nothing* else, or nothing *less*,) and he says, "it is *this* that gives to the transaction the character of its being *national*." Yet, how was this transaction actually managed? undoubtedly it was not by the *nation*, strictly speaking, or by any solemn act of theirs proving their assent. In point of fact, it was the act of a certain number of individuals, of great influence, no doubt, and wealth, but who had no other plausible pretence to be the representatives of the nation in that most momentous instance, except what arises from the assumption of the principle, that the lower orders of the people are not to be entrusted with power in matters of government—and that the necessity of the case precluded any other mode at the time of taking the sense of the upper orders. They were individuals not assembled for that occasion, or for any other national purpose, by any legal or constitutional *authority*. They had been, indeed, members of the House of Lords and Commons House, but they were not convened in those characters, professedly to alter the form of government or the line of succession; they met gratuitously, not as being, or representing themselves as either the Lords or the Commons in parliament assembled; but, obtruding themselves, no doubt, *usefully*, but certainly *officially*, not *officially*. By the memorable *resolution* which they then framed and published, it so happened that they achieved most important and useful changes in the government, and the transaction has been lauded as one conducted in a very *cautious*, but certainly, it was in a very loose, clumsy, and *inefficient* manner. They did not, indeed, at all assert the right of the nation to cashier the monarch for any breach of his high trust. They put forward not a *fact*, but,

what was strictly speaking, an *untrue assumption*, in order to ground upon it another *assumption*, equally groundless—unless, indeed, that *their* opinion were to be taken as of itself *proof* of the fact. It is a matter of great curiosity, and well worth attentive consideration, though, perhaps not immediately relevant to the question we are upon, to examine how many equivocations and false assumptions this celebrated *resolution* contained, and upon which they must have thought that the *legality* and *validity* of the title to the crown which they were about to confer, rested :

1st—They assume that the British monarch, James, held the crown by virtue of an original *contract with the people*. There is no pretence for such contract, as we have seen by the statements and doctrine of Blackstone himself.

2nd—That he, James, had endeavoured to subvert the constitution by *breaking* this *original contract*.

Now, waiving the objection to the existence of such contract, where are we told *what article* of this supposed contract he had endeavoured to *break*, or had *violated* ? With respect to the “*constitution of England*,” it is and always has been a phrase of very loose and indefinite import : so loose and indefinite that, contrary to all *moral* and *political* truth, it is said to be the leading article of this constitution, so far as the person wearing the crown is concerned, that the “*King can do no wrong* !” But this would seem (even when most favorably taken) to render it constitutionally *impossible* that James could have done the “*wrong*” they charged him with ; and it must be admitted, at this day, by every reasonable man that, if this celebrated maxim or article of the constitution be really part and parcel of it, the main allegation upon which the revolution rests is a flat falsehood—for, if the king can do no wrong, it is utterly impossible that he should have been guilty of “endeavouring to *subvert the constitution* !”

3rd—The third allegation in the catalogue of offences stated by the revolutionists as having been committed by the man “who could do no wrong” is—that, “by the advice of Jesuits and other wicked persons, he had *violated the fundamental laws*.”

But here those noble and learned persons appear themselves

to have dealt in something of the equivocation and artifice of those same *Jesuits* whom they accuse; for so little *explicit* are they, that they leave posterity to *guess* whether the *offence* of the man "who could do no wrong" was his having violated *any particular fundamental law* or laws—(if it were *certainly* their meaning to charge him with the *breach* of a *particular law*, or laws, they should, in justice to James and to posterity, have named those laws, or law, which he had violated,) or *his having done so on the advice of Jesuits or other wicked persons*.

4th—The next accusation, and one made without trial or possibility of defence, "relates to having withdrawn himself out of the kingdom." This charge is no less equivocal and "jesuitical" than the former, for their language is, that, "*having withdrawn himself out of the kingdom, he abdicated the government,*" leaving it to posterity to conjecture whether he had abdicated the government by the express overt act of having withdrawn himself from the kingdom he had abdicated, or whether the *abdication* was a second or additional offence after having withdrawn himself from the kingdom—or whether the abdication was the result of *all the offences* taken together *cumulatively*.

The 5th "jesuitical" declaration made by the revolutionists is, "and that the *throne* is thereby vacant." Now, whether it was by his having committed *one*, or *more*, or *all* of the alleged offences that the throne was then *vacant*, or that the mere *withdrawing himself* from the *kingdom* was the act which constituted the vacancy of the throne, we at this time of day would certainly require, if possible to obtain it, the information of Lord Somers or some equally high authority.

But let us pass over *verbal* criticism on this celebrated resolution, and observe more particularly whether the *whole* of the allegations taken together, as stated in that resolution, are sufficient to warrant his expulsion, and eke out a case against him founded on an alleged breach of the imaginary social control. In truth, it was to create something like this supposed *contract* between king and people, that the Whigs of that day entangled themselves in the absurd reasoning which this resolution implied, but did not dare to express. See how clearly

every clause and sentence of it, and indeed the whole of them, taken together, fail in making out a case against a "king who could do no wrong." I pass over the want of specification of overt acts, to shew an "*endeavour* to subvert the constitution;" or whether the *act that* is said to have constituted the *endeavour*, if effected, would have tended to *overthrow* the constitution. I also pass, without notice, the profound silence of the resolution as to *what* was the alleged "original contract" between the king and the people, which indeed the whole detail of Blackstone, on the subject of the king's hereditary title to the crown from the conquest, shews to have never existed, though he, too, endeavours in the passage already alluded to,* to slide in something of this visionary compact; but, like an artful advocate, he eludes all the difficulties of the case that he cannot answer, by simply assuming, "that the *facts* themselves alluded to in the resolution, viz.: 'the endeavour to subvert the constitution—the breaking of the original compact—his violation of the fundamental laws—his withdrawing himself from the kingdom—were all *evident* and *notorious*.'" The consequence too, drawn from those facts, namely, that they amounted to an abdication, though it belonged to the commentator to give some proof, or advance some argument to prove that they did so; yet he simply, and with great self-complacency, says, "that it belonged to our ancestors *so* to determine!" I cheerfully admit that if by "our ancestors" he meant that class of the people of England who, by their class were privileged to share or wield the power of civil government; and that this class was legitimately called to consult upon, and decide this great question of social liberty, they had that power. But is it quite clear, first, that the people of England, even in this sense of it were not, if I may use the phrase, adequately called on to deliberate on that question, and it is clear that those who did come to that decision were incompetent to the purpose, for though those persons were called together it was not by the people. The

* Blackstone, 1 vol. 212.—Where he says, "whenever a question arises between the society at large, and any magistrate vested with power, originally delegated to him by that society, it must be decided by the view of the society itself; there is not on earth any other tribunal to resort to." The magistrate here intended is clearly the king—James himself.

constitution pointed out no substitute for the Royal call of the Lords and Commons, and therefore it would seem that not only was the whole of their convention illegal, so far as want of regal form of proceedings went, but also unconstitutional, and that the authors of the resolution, in the most favourable construction of their conduct, were only competent to announce their own individual opinion. This objection may be said to apply technically to all cases of revolution, for which there can be no technical form of collecting the sense of the nation; but the objection to the conduct of those lords and ex-commoners might go further; for it appears from Hume and the other contemporary historians, that they acted for and were called together, not only not *for* or *by* the people of England, but *for* and by the very man whom they had *already*, and *before* the alleged *abdication*, called over as the *rival* of their monarch, and who was then laboriously beating about for some *pretence* to colour what undoubtedly was neither more nor less than *treason*, and which would have been punished as such had the attempt been unsuccessful; and, therefore, even when it succeeded, can deserve no other name than successful treason, by which (and I am most free to admit it) great good was achieved for the country, though by contrivances clumsy, shallow, and marked most conspicuously by false, or at least unproved pretences, and evidently produced by fear of openly avowing the truth and justice of the case—namely, that the general conduct of the king had been such as made it expedient for the nation (who the convention were not) to renew and re-model the constitution according to the exigency of the state, as it stood at that particular crisis, and the true principles of civil government! Nothing, indeed, can exceed the silly sophistry on which the Resolution placed this great transaction. Exclusive of charging the king *de facto et de jure* with “doing wrong,” which by the constitution he is legally incapable of doing, they charge him with breaking a contract which never existed, and violating laws without specifying any particular law, and construed his *withdrawing* from the kingdom to save his life and his crown (*both* which his predecessor lost by *remaining in it*) as an *abdication*!

Ought then James to have been yet suffered to reign? In

the opinion of *one* humble individual, *undoubtedly not* over a *free* people, being *Protestant*, and among whom the Protestant religion was the *religion of the state*, and forming part of the *elements of the constitution* ! The observations which have been just made, were called for in reference only to the shuffling, indistinct, uncandid, and untrue pretences which were put forward as the ground and motives for this great act, by which a free people were, for the time, delivered from a sovereign who had substantially broken faith and violated his sacred trust.

In an inquiry such as we are now upon, and perhaps most probably while at this point of our inquiry, may it not be useful to consider as a question fit for theoretical discussion by legislators and jurists, whether this so much lauded revolution, *that* in which those who call themselves *Whigs*, have been wont to glorify the principles of their party—may it not, I say, be useful to consider, whether the precedent of that revolution is one which a free people ought, under analogous circumstances, to imitate or follow ? If the Protestant religion of the state shall again be placed in jeopardy by the sovereign or by his ministers, with his assent, concurrence, or permission, those ministers themselves being either popish, or plainly and openly acting under the popish influence and advice of *Jesuits and other wicked persons*, a *popish leader* and a *popish hierarchy* grown powerful by criminal impunity and a long suspension of the laws which they have openly violated—if further, this popish faction and the leaders of it, clerical and lay—the principal leader in the *pay* of a popish populace—and a proud, and insolent, and popish hierarchy—if, I say, all those circumstances combined, and confederates such as I have described, shall openly threaten the overthrow and destruction of the *Protestant establishment* in at least one part of the British empire, by a sanguinary insurrection of *physical force*, and should have already so far proceeded with impunity, as not only to *menace the Protestant religion* of the state, but to have *loudly called for an abolition of one branch of the legislature*, and *unconditional obedience* to their will from the *other two*—ought, I say, under such circumstances, the precedent of the revolution of 1688, to be followed by a free Protestant community, to preserve themselves and their religion,

their constitution, freedom, and even personal safety, from the crowd of dangers that appear to gather over them?

Is it to be understood that it is now a principle established by the revolution that it is permissible, or is a *duty* which a free people owe to themselves, to recur again to the condemnation of a chief magistrate unheard and undefended, by a number of persons, not convened according to any mode prescribed by the constitution, but gratuitously assembling and voting away the crown of the sovereign, upon the alleged notoriety of unproved facts, and by a resolution, republishing the principles of sound government on the revolutionary basis? Or, is it now to be taken as decided, that revolution is in no case justifiable as a *principle* in civil government, and that even under circumstances such as I have enumerated, the free Protestant people of these realms should patiently submit their laws, liberty, religion, and constitution, to the usurpation and tyranny of popish power or Protestant treachery? If, to adopt the popular opinion on this subject, we are to say, that *revolution* may become necessary, and a public duty, but that there cannot be any previous ascertainment of the *precise* circumstances which may make revolution necessary or excusable, we ought, at least it is hoped, be prepared with some guide, rule, or maxim, *as to the class of persons* by whom the *discretionary power* of *revolution* may be entrusted!

It is, indeed, much to be feared, that the word *Constitution*, in modern usage, has no definite meaning—though formerly it was clearly understood to mean a system or number of *fundamental principles* upon which the government of the country was founded, and by which it was administered. For example—the principles of the revolution of 1688, and the *constitution* to which they referred as having been violated by James, and for the preservation of which the monarch was removed, appear to have not the least resemblance to those which *now* prevail in the British constitution. From this, one might be warranted to infer, that the constitution of 1688 was abrogated, and a new one substituted—but then arises another difficulty—for, the principles of the constitution of 1688 are yet ostensibly *professed* by the Whig party as the rule of their government, and as being identically the same which

removed James, and placed the present race of sovereigns on the throne. One can easily understand that the *measures* of one government may differ from those of another, though the principles of the constitution remain unvaried—but how can we reconcile the assertion that we are still living under and governed by the principles of *that* revolution, which was *avowedly* founded on—as its ruling and characteristic feature—the principle of a *Protestant* national government—and the present *existing* fact? It was a violation of *that* principle by James, that produced, and was proudly and publicly avowed as a justification of that revolution which stripped him of his crown—yet what is at present the *ruling principle* of the British government (though there has been no avowed revolution since that of 1688,) when not only Roman Catholics elected by a popish population, and a popish hierarchy and priesthood sway the majorities by which the House of Commons legislate, but the *highest law officers* of the state, *those by whom, if at all, the rights of the Protestant institutions* and subjects of the realm, are to be asserted—nay, even the *judicial* seats in the king's courts are occupied by popish judges?—nay, when even the king's first minister in the British House of Peers feels himself warranted in advising that branch of the legislature to enact as law what he describes and admits to be a “heavy blow to Protestants!” Can it be a Protestant constitution that subsists where such things happen!

Will it be said that the laws disqualifying Roman Catholics, which prevailed in 1688, have been now repealed by the *wisdom* of the legislature; and that, therefore, the present favor and power conferred on Catholics, or enjoyed by them, are but the result of this alteration in the laws? The answer would be futile. The enacting of those repealing statutes is itself proof of *change* in the principle of the constitution of 1688, which was founded on their exclusion from power—but the answer is futile and evasive in a more signal instance. The favor which is shewn to Catholics by the king's government is evinced, not merely by a *willing* compliance, in some particular instances, with the privileges which recent laws have made them capable of enjoying, but by that indefinite, though palpable indulgence

even to *Popish violation of existing law*, and that *disfavour* to a *Protestant church*, and *its clergy*, and *people*, which mark, in the most striking manner, the conduct of the governing power—and more emphatically in Ireland, the chief seat of Popery in the empire! In *what sense*, therefore, I should be happy to be informed, have we *now that* Protestant constitution, to secure which, was the object and cause of the revolution of 1688? If *that* constitution be gone, and that we have now *another*, how has the change been effected? HAS IT BEEN EFFECTED BY A NEW FOURTH ESTATE—A ROMAN CATHOLIC POPULACE AND PRIESTHOOD? If *that* has been the efficient cause, which has silently substituted a *Popish* for the *Protestant* constitution of 1688—are we warranted to admit that another *peaceful*, but effectual *revolution*, would be justifiable to correct the evil, and if so, *how* is it to be effected?

C.

SECTION III.—PAGE 61.

WHEN the jurist or the civilian finds it necessary to refer to a *state of nature*, or what is called the *law of nature*, he finds himself immediately in doubt and difficulty to fix with precision what precise ideas he should annex to these words—in doubt, first, as to what he himself exactly means by a *state of nature*—and in difficulty, after having ascertained his own meaning as to the phrase *state of nature*, what are precisely those laws, or that law, which is called the *law of nature*. In fact, we can arrive at no certainty on this subject; and not only are we unable to learn with exactness what is the precise meaning which any particular writer annexes to it, (unless he defines,) but even in the use which we ourselves make of it, we are unsteady in the application of it. For this reason it is that we add so little to our knowledge, generally speaking, by discussion on this topic. For example, how difficult, if not indeed impossible is it, to form a precise idea of any state, in which man can be supposed to have lived

uncontrolled by any rule or law but that which *nature* is said to have dictated!

The first difficulty which arises, when we speak of the LAW of *nature*, is to fix the meaning in which the word NATURE is used.—Is it that which is called the *visible universe*—appearing to the sense without any reference to the Great Author of the universe, or his attributes?—Or do we mean by it that GREAT BEING Himself, clothed in and acting through His attributes? If we mean the latter, then by the law of nature we mean a law of *God*. This, however, would seldom, if ever, answer the purpose for which we resort to the phrase; for, of itself, it would convey, in most cases, no idea whatever—it would be rather the proposal of a problem to solve than a mode of communicating information, and would suggest the question—what is this *law of God* that is called the *law of nature*?

If, in order to get rid of the difficulty, we allege that the law of *nature*, or law of *God*, is impressed on the mind of every man, and must be known to him as resulting from the attributes of the Deity, evinced by His creation of the visible universe, and of man himself—we are driven to another difficulty not less embarrassing; for, if we take man, as existing in an insulated state—as solitary and savage—*proles sine matre creata*—without any rule or law beyond that which such solitary savage, however produced, might extract by his *reasoning* power, from his own existence, and that of the surrounding material universe—surely on such an hypothesis, it would be ridiculously absurd to expect from such a being, so circumstanced, a reasoning faculty, so powerful, as to be able to achieve the discovery of the law of nature, or of God, or that certainty of the existence of the Deity and His attributes, deducible from His visible works, (and this, whether we refer to the argument *a priori* or *a posteriori*) which, though it has certainly been achieved by the labour of cultivated faculty and extensive logical and general learning, it would be vain to expect from the common crowd of reasoners—not to say, from the solitary savage.

But if this LAW of *nature* cannot be supposed to lie within the knowledge of man, in a state *previous* to his civilization,

and the consequent cultivation of his mental powers, we are still more perplexed in attempting to comprehend how man, or men rather, could possibly have lived in any other than a *perfectly solitary savage state*, bound by no law, regulated by no rule, not having, in the case we put, the benefit of even that *law of nature*, which, in the view we now take of it, would be, as to him, a *nonentity*.

But it may be said the phrase has a conventional meaning sufficiently certain for the purpose for which it is used—and we may be told in general terms, that it means ‘man immediately after he came from the hands of his Creator.’ A crowd of difficulties of the most embarrassing kind here break in upon us, such as overturn all the various interpretations and theories that, in reasoning on this supposed state, have been given to the expression—for example—Do we rely upon revelation for the time and manner of his coming from the Creator’s hand, and do we therefore (as we must on the supposition) take him as formed at once ‘adult and vigorous’ in mind and body, and capable of understanding, indeed actually knowing (what his progeny can acquire only by the teaching of their seniors, and the study of the best portion of their whole life,) the language which creation so loudly speaks to *cultivated* reason—and that he also has had announced to him the express terms of the law, upon obedience to which depended the happiness of himself and his posterity? If that theory be adopted, then man in ‘a state of nature,’ was not a solitary savage, in a state of profound ignorance, and in which he was, nevertheless, to be under the necessity of excogitating for himself a moral and religious law, derived from a right and perfect knowledge of the divine attributes—for revelation teaches that man, at his creation (i. e. on the supposition we are now adopting, as to ‘his state of nature,’) was favoured by his Almighty Maker, with a law immediately communicated to him for guidance and government in the happy estate in which he was placed—he enjoyed too a perpetual communication with the source of all wisdom, the Deity himself—and therefore, instead of being a solitary savage, we must take him to have been provided with all the comforts and pleasures of animal life, and if not *all* the wisdom and knowledge which our nature was capable

of comprehending, at least, abundant knowledge for his moral as well as physical government. Such a state of nature would answer none of the theories: and exclusive of all other difficulties, it would necessarily lead to the conclusion, that the progeny of the first man would have come into the world and been brought up by parents, by whom and his brethren, he would be surrounded as by a *society*, governed by parental rule, which would have quite excluded the state of nature in the sense in which it is used. Shall we again then, rejecting revelation, adopt other conjectures as to the first state of man, and call *that* his state of nature? Let us, for instance inquire, was he formed at once full grown, in all the vigour and perfection of animal life, but destitute of divine revelation, as well as of all knowledge of law and duty, and influenced only by animal instinct to satisfy his wants, in the field or the forest? What would be the law of nature to him, and where, or how should he acquire a knowledge of it, in the absence of all occasion for its use or exercise? This is, therefore, the same difficulty which we had to encounter before. Let us once again, then, passing over the origin of the species, suppose that the species had been continued by generation; we then have the societies of *family*, parents, children, brethren, &c. among whom, knowledge of the rules or laws necessary for such a society, and proportioned to its numbers, would, nay must, arise—but *these* would, again, be laws of *society*, not of *nature*—they would be human compacts, or usages, and fall within the denomination of *civil society*.

The inquiry, therefore, seems to end in this result—that if we suppose the earliest specimen or portion of the human race to have been solitary in the first instance, or if not solitary, to have been in savage ignorance, he or they could not have elaborated for himself, or themselves, a knowledge of the law of nature, such as the jurists now speak of, or any thing in the most distant sense approaching to it. And if, instead of contemplating man in his first estate of solitary savage ignorance, or inquiring how he came to be generated or produced, we conceive a body of savages actually existing and associating together, and forming

or adopting rules, customs, habits, or laws, such as their commerce with each other would suggest or impose on them for protection or convenience—*these* would not be the law of nature of the jurists, but a law or code of associated civil society, however imperfect or barbarous that code might be. In fact the result of the inquiry must be this—that no laws can be devised or understood by man in a savage state, but those which necessity, or his situation in connexion with other men, savage like himself, forces upon him. From what other source could such a knowledge arise? Whence could come to him the *law of nature*.

Could it (and this difficulty we have encountered before, and it must always embarrass in this inquiry,) be a law, derived by the mere force of *reason*, from the contemplation of the Deity and his attributes—from the *miracle* of creation, or the *moral fitness* of things; sources from which *we*, who live in a reasoning and philosophic age, endeavour to elicit a system of original law—that we call the law of *nature*. Surely upon no principle of reason or philosophy can it be comprehended how an herd of savages could, from abstract reasoning, extract any, even the most simple and intelligible, of the many items which constitute a code of natural law, such as the jurists and theorists have amused us with; All the elements from which any such code could be formed, must be infinitely above the comprehension of the untutored, uncultivated, profoundly ignorant, and merely sensual savage biped. But if he were *capable* of comprehending any such law or code from his sense of the moral fitness of things, what would there be to induce his obedience? what sanction would there be to *him*, to enforce those shadows of law—those merely abstract contemplations? That Providence has not thought fit to connect obviously, and to the ordinary view of man, *immediate* punishment or reward with the disobedience or performance of any breach of the moral, or even of religious precepts must be admitted.—Could, then, the savage, by reasoning “so find out God,” as to feel conviction, that certain though late punishment for violation of this law of nature, which he had discovered, would sooner or later arrive?—Could *he* anticipate the knowledge of a state of future existence and

retribution which was not known, though it may have been supposed possible or probable by the most wise and cultivated of the human race, previous to the period when, as we believe, it pleased the Creator of man to bring "immortality" to light? and if not, what was there in this imagined law of nature, which the savage could extract for himself from the 'fitness of things,' that would restrain or regulate his conduct with respect to others? Would he abstain from killing his fellow-savage from whom he had received offence? Would he be prevented from taking by violence, from the savage less powerful than himself, that which such a savage possessed, however long might have been his previous occupancy of it? because, forsooth, it was not consistent with the *fitness of things* to do so! Would he abstain from the gratification of *any* of his sensual or sexual appetites, because he would thus violate a *law without a sanction*, which, in some profoundly philosophical moment of his former life, he had brought himself to believe existed in the *nature of things*, but which, in the tumult of his passions, or the urgency of his wants and desires, he now forgot!

But it is unnecessary to proceed further in these remarks; it is, to me at least, quite obvious that what we call the *law of nature*, was utterly incomprehensible to savage man; and if he were even capable of comprehending the abstruse and abstract theory from which that law is derived by us, *he* would have none—or no adequate motive to obey it. We can, indeed, easily comprehend a state of savage life, however, it may have arisen or been produced, in which a horde of savages held together in a kind of society, multiplied, and became a people, under the customs, rules, laws, whatever may be the name of them, which, pressed by their wants, their fears, their sufferings, they from time to time, *pro re nata*, agreed by compact express or implied, to submit to and enforce mutually for and against each other; but these are *laws of society* in one sense, laws of civil government, though imperfect, absurd perhaps, and unjust and barbarous in their principle, but which, as civilization spread, became daily improved, and fitted for improved and improving state of the society.

D.

SECTION IV.—PAGE 97.

It is impossible, when we consider the loud and ceaseless cry against the Established Church in Ireland, not to feel a deep conviction that the *movement* which it accompanies is, not *political* merely, but *Popish*. The more deliberately we retrace the progress of this movement to its commencement, the more will this opinion press upon us. The Irish rebellion of 1798 was Popish, though a few of the disturbed spirits which organized and guided it were not Papists—The spirit which influenced its progress, throughout its short duration, was *popish*, cruel, and superstitious. Its bullet-proof priests in the front of the battle—its massacre of the Protestants, &c. &c. on the bridge at Scullabogue, &c. &c. &c. all deeply impress it with the seal of Popery.

At the conclusion of that rebellion, O'Connell was called to the Irish bar, and though a barrister at a period, when the Union was yet a question for discussion, neither his voice, nor that of the Roman Catholic population or priesthood, was heard to deprecate or resist the measure which has, for the last seven years, been the theme of Popish sedition. Nor is the cause of this silence unknown or denied.—The promise, express or implied, made by Pitt, and of which Castlereagh availed himself to lead the Catholics to believe that it was the want of a legislative union of the two countries that prevented the concession of their perfect emancipation—*this* it was that induced them to an implicit and silent submission to that measure. That their conduct may in that view of it be excused is admitted—but still the motive was *Popish*, not *national*. Since the Union, every step in the *movement* (and it has been unremitting, though its progress was marked by different degrees of velocity,) will be found to have been purely, exclusively Popish—every new acquisition of power has been a fulcrum on which to raise a new claim—and each new claim had for its object an addition to Popish

power. By what agency has the movement at last reached its present alarming, frightfully-dangerous position?—By the combined power of the Popish priesthood, through O'Connell operating on the Popish population—the 7,000,000! It is this combined power that now speaks through the vulgar insolence of a Mac Hale, and that dominates through the insidious policy and—*perjury*, shall we say, or *misinterpreted oath*—of O'Connell and his thirty-six followers, over the time-serving un-English, temporizing, and treacherous cabinet, that now misrules this once free and Protestant state! It is perfectly idle, therefore, for the people of England to reason or to act with respect to their present situation, on the principles of ordinary policy. The situation of the empire is *unique*.—It is not simply a seditious population, headed by one or more unprincipled, turbulent, or ambitious men, that the Protestant people—the intelligent middle class, and the higher ranks of the British empire have to deal with—it is with the population of a *nation*, essentially popish, under the direct impulse of an hierarchy and priesthood—not Popish only—but Popish flushed with a long train of conquests over a Protestant British government—high in blood—and swelling with the ambitious hope of prostrating to the earth the religion of the British people—against which, Popery, for the three last centuries, has, without one moment's intermission, cherished that emphatic hate which is inherent in the Romish perversion of Christianity, against the freedom and truth of the reformed churches. If this *movement* shall be suffered to proceed, unchecked, to a result such as may well be feared from the continuance in power of the men who now hold the fate of the empire in their unsteady and feeble hands—farewell to the boasted constitution, and to the proud station of England, as Protectress of Protestantism in Europe! Slavery and Popery will no longer be unmeaning watchwords, as they too often have been, when Slavery and Popery were far from us! They will but too truly designate the state into which we shall have fallen. Let the men, who think freedom of religion, and regulated civil liberty are blessings, bethink themselves, ere it be too late, of the imminent peril in which their best blessings are placed. Let the

Dissenter, who has often so nobly stood forward for the freedom of religious truth, no longer deceive himself by the fallacy, that the degree of power which he wrests from the Church of England will be added to his own. Alas! it is but for the triumph of Popery, with all the calamities which history has proved to follow in its train, that Dissenters would successfully beat down an Established Church: and let the Church of England remember that her best ally against Rome and its religious and political iniquities, are the dissenting churches, who have always boldly fought the battles of Christian freedom. Whatever is conceded to them, is so much added to the united force of the Christian church against their common and now triumphing enemy!

The subject of this note may, perhaps, warrant a word or two on the subject of the joint education of the Protestant and Popish children of the poor.

Very much indeed has lately been said and written on the subject of national education in Ireland, and much religious and political animosity has been excited by the different schemes which have been proposed, and especially *that* which the present government have adopted, and are, as they say, carrying into execution. Only one point of this complex and difficult subject appears to be free from doubt, namely, that *some means* not yet tried for the education of the Irish population are indispensably requisite to raise them from the prostrate state of degradation in which they now lie.

Every proposal hitherto offered for this great object seems to regard the elements of *literature* as a necessary foundation of the education of the poor, and no doubt they are so; but then comes the question of combining *moral* and *religious* instruction, with literary. Here arises the great practical difficulty. In a population where the members of the two principal sections of the Christian church in Ireland, are so variant in number as nearly seven millions to one, it would seem that a difficulty almost insurmountable exists in the way of framing one scheme of education for both classes; while on the other hand it is considered, that educating children of each class separately, would tend to

perpetuate and widen the breach which at present disunites the Roman Catholic from the Protestant portion of the people. It is doubtful I think whether this latter opinion be well founded, but certain it is, that the attempt which government are at present making to effect the united education of both classes cannot succeed—not because the *plan* of education which they have adopted is not, in the *abstract*, consistent and feasible ; not because, as is so frequently and unreasonably asserted, that the system is calculated to withhold the Scriptures either wholly or in part from the Protestant pupils ; for undoubtedly it affords abundant opportunity both to the Protestant pupil, parent, and clergy, to read and teach the whole of the Scriptures : but the attempt will fail, because, although the Protestant prejudice against the plan did not exist to obstruct the success of the experiment by an absolute abandonment of it, there are causes which would necessarily and effectually render the project of *united* education of both classes abortive. First, the overpowering superiority in numbers of the Roman Catholic children in all the schools, and in whom an hatred of the name of Protestant is coeval with their first perceptions ; an hatred which would not certainly be mitigated by the presence of a popish school-master, and perhaps a popish priest ; in this united system, *this* would almost inevitably make these schools rather arenas for personal conflicts than peaceful seats of literary or religious instruction. Next to this, another cause not less powerful would operate against their plan—it is this ; that however zealous the Protestant clergy might be in attending to the religious instructions of the Protestant children, they would necessarily constitute a very small minority compared with the numbers of the Popish clergy, who in the case supposed would perpetually hover round the schools in the true spirit of theological *hatred*, and probably, if we may judge from the tone of Bishop MacHale, and the Popish press towards the insulted clergy of the Protestant church, would display an insolent arrogance suggested and supported by the consciousness of a surrounding and resistless physical force that would quickly compel the Protestant clergy to abandon this unequal contest. How various indeed, and numerous are the topics which would hourly furnish matter for

invective and exasperation of feeling between those two classes, of priests, if in every such school they were to meet daily? what sources of virulent abuse from a rancorous press against the Protestant clergy already vilified with such perfect impunity!—Surely they need not be brought to the recollection of any man whose eyes and ears are not closed against all that daily events, and the scandalous and scurrilous filth of the daily press, obtrude upon his observation. It is assuredly in the highest degree absurd, to hope that the clergy of those two opposing and conflicting sects could meet in the same places and for religious purposes, and surrounded by their respective disciples of those sects, without violations of public peace and Christian decorum, which never could be tolerated.

If the Irish infant population therefore under any public institution are to be educated in religious truth, and that the clergy are to intervene, each class of the leading Christian creeds must receive their religious education separately. The government plan must fail. That it has failed already with respect to the education of the Protestants is not I believe denied; but if the separate education, *religious* as well as literary, of the *Irish Catholics* shall be considered as one which under a *Protestant government* and Constitution, may be supported without the absurd anomaly of a government at the same time, *counteracting and promoting* the same identical purpose, namely, the support of a Protestant church and its Opposite—the separate national education of Catholics *may* proceed; a *joint* education is impossible.

But whatever the government may decide as to that point hereafter, may it not be worth while to consider in the mean time, *what is the kind of education that the children of the poor in Ireland are in need of, looking to the situation of the country*; or in other words, what would a prudent friend of the Irish poor, and of the community, and of humanity wish, that the rising generation of the lower orders of the Irish people should become? for all education must have reference to the end to be obtained by it. Surely, though this consideration is in the highest possible degree important to the general interest of the empire, and of society, yet it is not involved in either mystery or difficulty. The wish of the philanthropist, the good citizen, and

the good man, is, that they should become *industrious, orderly, amenable to law, intelligent, moral, and religious*, according to *some* Christian creed which is consistent with those qualities in a people. If so, I ask, will *that* degree, the *utmost* degree of literary cultivation which the children of the poor may by possibility receive from the education furnished by national eleemosynary schools, imbue them with those moral and social virtues, which alone can make them good subjects, and good men? Will it teach them sobriety, industrious habits, the useful arts of husbandry, of manufacture, or habitual honesty or truth, as between man and man; or attachment, or amenability to law, justice, loyalty? Alas, much is it to be feared, that literary education alone, nay, with all the *religion* too which, in times like those we live in, they are likely to acquire in chapels where political priests teach the political doctrines which have laid the law and the *social virtues* prostrate, would be not only inadequate to produce the moral change in their disposition which all good men must wish, but, on the contrary, they would tend to heighten and aggravate all the bad passions which for the present blast the hope of Ireland, and make us avert the eye from the cheerless prospect! Yes, assuredly something more than letters, and the holy idleness of keeping all the saints days in the Catholic calendar, and being able to read all the speeches of O'Connell, and all the debates of the Trades' Union, and all the projects of reform and of new laws suggested and insisted upon as necessary to "justice for Ireland," by aggregate and county and parochial meetings—is necessary for those purposes; much more, and much of a very different quality must the education teach which shall render the rising generation of Irish youth fitted for becoming useful members of society, or ameliorate the condition of the lower classes of society in Ireland.

I confess, therefore, with grief of heart, that from any existing or any proposed mode of educating, *as a national concern*, the children of the Irish poor, there is not, in my opinion, the least rational prospect of ultimate national benefit. To my understanding, preferable to all modes of mere literary instruction, for the purpose of encreasing the actual welfare and happiness of

the rising generation of Catholic poor, and through them the peace, safety, and prosperity of Ireland, stands *first and foremost*, such an *administration of the laws* as will teach the young, through the example of the old, that the laws must be obeyed—that the sanctity of law can never be violated, either with success or impunity—that the safety and welfare of each individual, as well as that of society at large, depends inevitably on *his* constant and uniform compliance with its injunctions,—that the road to comfort, competency, prosperity, and good name, is to be found only in the way which the law of the land, and the law of God prescribes! This lesson can be effectually taught only by adequate and fitting punishment inflicted uniformly on offenders. No hope should be left to the young or the old culprit, or those who meditate, or may be tempted to crime—that either an unwise or a factious *abuse* of the mercy of the crown may through party feeling, or with party motives, be extended to the convicted offender. No *crime* should be considered trivial, nor should the honestly-exercised discretion of the judges of the land be superseded by a king's representative; nay, nor by the sovereign himself, unless by subsequently discovered facts it should be ascertained to the satisfaction of those judges themselves, that error had intervened in the judgment or sentence through ignorance of material and extenuating facts.

Next to this first and great article in the plan of national education, should be the enacting, or the enforcement of laws already existing, calculated to repress, by exemplary punishment, all attempts to mislead the young or the aged into seditious practices—whether at *open popular* meetings, or covered by *secret oaths*. To these should be added a liberal, nay, a generous and perfectly efficient encouragement to industry, whether that of the young, or of the old, for the young will not be idly inclined if the aged be industrious—and lastly, the institution of a poor law, by which the lower orders would become bound by a new and a stronger tie to the government of the country in which they live, by a feeling that they have an interest in the well-being of a society which provides an asylum forage and blameless poverty. To make such a poor law, and the other measures, which the education of the poor,

and promoting the general industry fully effective, the funds should be taken from such a *class of society* as would unequivocally exclude all that even verge upon absolute poverty. If such a spirit of government prevailed, at once indisputably strong and unequivocally beneficial to the lower classes the task would not be difficult, to find means of giving to the children of the poor, all the literary and religious education which their state would require or admit.

The other topic alluded to above—public provision for *religious* instruction for the lower order—is also one that has recently become a popular and angry, and as it appears to some, a difficult subject of debate; for it involves the question of a national church establishment. Till recently, and until the Irish Catholics began to speak so insolently through their organ, the establishment of a national church had been from habit, as well as reason, *esteemed* a national good; it was part and parcel of the Constitution, of which we have so long boasted, and for which we have been so much envied. The arguments against a religious establishment are not very intelligible; nor shall I, in this place, enter into a discussion of them; but the argument in favour of one, seems to me at once, simple, intelligible, and unanswered. It is this—the government of every state is bound by its duty to the society who submits to it, to adopt and support every measure consistent with what, to it, appears justice and sound policy, to secure the peace, safety, and well-being of that society. Now, if those who constitute the governing power, do really believe that *religion*—the *Christian religion*, for instance—has a *direct tendency* to promote the *temporal*, as well as *spiritual* welfare of a Christian community, it is the duty of that government to establish that religion, if not yet established; and if established, to protect and cherish it, as a mean of public as well as of private utility. If the civil government be decided in opinion as to which particular sect, or form of worship among sects, be the *true* and the *best*, I can see no human motive why *that* sect should not be made the established religion of the country, leaving, however, all other sects (which do not hold doctrines *inconsistent with* the safety of the commonweal) at perfect

liberty as they shall conscientiously believe, to adopt any other creed.

If the rulers of a state once adopt, or have received from their predecessors a religion, as established and forming the very basis of the constitution of that state, it seems not only natural that they should consider *that* to be the religion to be taught under the auspices of the state, but that it would be inconsistent and absurd in that state to *teach*, as true, any other form of doctrine; and emphatically so, if that other form was one which the rulers of the constitution professed to consider as false and idolatrous, and also inconsistent with a steady and unqualified loyal fidelity to the government of that state itself. It would follow, that wherever the state is to furnish means of public worship, the form of worship should be that which the state and the constitution both concur in adopting as the true one.

The Poor have, also, I conceive, a *right* to have provided for them the means of education and religious worship, because they must be considered as, at least, equally unable to procure *those* for themselves, as they are the means of life. Those provisions rest exactly on the same principle as a POOR LAW. Even with a view to the *interests* of the higher order of society, the means of moral education for the poor, are, at least as indispensable as the poor law. An uneducated population—ignorant and vicious, is as dangerous to the peace and property of the higher orders, as can be the desperation of famine in a starving multitude. Can less be said for the necessity of means of religious instruction for the adult poor—the mass of the population? Without the sanction of religion, and a right judgment of the power and attributes of the Deity, human laws lose much indeed, of their binding—their coercive force. In providing for these wants and rights of the lower order, considerable difficulty certainly arises to the legislature, where the great body of the community happen to profess creeds essentially conflicting, as at present in Ireland—but a difficulty in the way of performing a public duty, can never, if the difficulty be superable, dispense with the obligation.

THE END.

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